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Vol. 57 No. 86

federal register

Monday
May 4, 1992

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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 28, at 9:00 a.m.
WHERE: Office of the Federal Register.
First Floor Conference Room.
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to corner of 11th and L Streets

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Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 12803 of April 30, 1992

Infrastructure Privatization

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that the United States achieves the most beneficial economic use of its resources, it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "Privatization" means the disposition or transfer of an infrastructure asset, such as by sale or by long-term lease, from a State or local government to a private party.

(b) "Infrastructure asset" means any asset financed in whole or in part by the Federal Government and needed for the functioning of the economy. Examples of such assets include, but are not limited to: roads, tunnels, bridges, electricity supply facilities, mass transit, rail transportation, airports, ports, waterways, water supply facilities, recycling and wastewater treatment facilities, solid waste disposal facilities, housing, schools, prisons, and hospitals.

(c) "Originally authorized purposes" means the general objectives of the original grant program; however, the term is not intended to include every condition required for a grantee to have obtained the original grant.

(d) "Transfer price" means: (i) the amount paid or to be paid by a private party for an infrastructure asset, if the asset is transferred as a result of competitive bidding; or (ii) the appraised value of an infrastructure asset, as determined by the head of the executive department or agency and the Director of the Office of Management and Budget, if the asset is not transferred as a result of competitive bidding.

(e) "State and local governments" means the government of any State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States, and any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate governmental entity, council of governments, and any agency or instrumentality of a local government, and any federally recognized Indian Tribe.

Sec. 2. *Fundamental Principles.* Executive departments and agencies shall be guided by the following objectives and principles: (a) Adequate and well-maintained infrastructure is critical to economic growth. Consistent with the principles of federalism enumerated in Executive Order No. 12612, and in order to allow the private sector to provide for infrastructure modernization and expansion, State and local governments should have greater freedom to privatize infrastructure assets.

(b) Private enterprise and competitively driven improvements are the foundation of our Nation's economy and economic growth. Federal financing of infrastructure assets should not act as a barrier to the achievement of economic efficiencies through additional private market financing or competitive practices, or both.

(c) State and local governments are in the best position to assess and respond to local needs. State and local governments should, subject to assuring continued compliance with Federal requirements that public use be on reasonable and nondiscriminatory terms, have maximum possible freedom to

make decisions concerning the maintenance and disposition of their federally financed infrastructure assets.

(d) User fees are generally more efficient than general taxes as a means to support infrastructure assets. Privatization transactions should be structured so as not to result in unreasonable increases in charges to users.

Sec. 3. *Privatization Initiative.* To the extent permitted by law, the head of each executive department and agency shall undertake the following actions:

(a) Review those procedures affecting the management and disposition of federally financed infrastructure assets owned by State and local governments and modify those procedures to encourage appropriate privatization of such assets consistent with this order;

(b) Assist State and local governments in their efforts to advance the objectives of this order; and

(c) Approve State and local governments' requests to privatize infrastructure assets, consistent with the criteria in section 4 of this order and, where necessary, grant exceptions to the disposition requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" common rule, or other relevant rules or regulations, for infrastructure assets; provided that the transfer price shall be distributed, as paid, in the following manner: (i) State and local governments shall first recoup in full the unadjusted dollar amount of their portion of total project costs (including any transaction and fix-up costs they incur) associated with the infrastructure asset involved; (ii) if proceeds remain, then the Federal Government shall recoup in full the amount of Federal grant awards associated with the infrastructure asset, less the applicable share of accumulated depreciation on such asset (calculated using the Internal Revenue Service accelerated depreciation schedule for the categories of assets in question); and (iii) finally, the State and local governments shall keep any remaining proceeds.

Sec. 4. *Criteria.* To the extent permitted by law, the head of an executive department or agency shall approve a request in accordance with section 3(c) of this order only if the grantee: (a) Agrees to use the proceeds described in section 3(c)(iii) of this order only for investment in additional infrastructure assets (after public notice of the proposed investment), or for debt or tax reduction; and

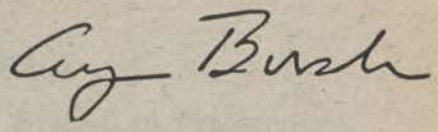
(b) Demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that: (i) the infrastructure asset or assets will continue to be used for their originally authorized purposes, as long as needed for those purposes, even if the purchaser becomes insolvent or is otherwise hindered from fulfilling the originally authorized purposes; and (ii) user charges will be consistent with any current Federal conditions that protect users and the public by limiting the charges.

Sec. 5. *Government-wide Coordination and Review.* In implementing Executive Order Nos. 12291 and 12498 and OMB Circular No. A–19, the Office of Management and Budget, to the extent permitted by law and consistent with the provisions of those authorities, shall take action to ensure that the policies of the executive departments and agencies are consistent with the principles, criteria, and requirements of this order. The Office of Management and Budget shall review the results of implementing this order and report thereon to the President 1 year after the date of this order.

Sec. 6. *Preservation of Existing Authority.* Nothing in this order is in any way intended to limit any existing authority of the heads of executive departments and agencies to approve privatization proposals that are otherwise consistent with law.

Sec. 7. *Judicial Review.* This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the

United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
April 30, 1992.

[FR Doc. 92-10495
Filed 4-30-92; 4:17 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6425 of April 29, 1992

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Section 504(a)(1) of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2464(a)(1)), provides that the President may withdraw, suspend, or limit the application of the duty-free treatment afforded under the Generalized System of Preferences (GSP) with respect to any article or any country after considering the factors set forth in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2461 and 2462(c)). Pursuant to section 504(a)(1) of the 1974 Act and having considered the factors set forth in sections 501 and 502(c), including, in particular, section 502(c)(5) on the adequate and effective protection of intellectual property rights, I have determined that it is appropriate to suspend the duty-free treatment afforded under the GSP to certain eligible articles that are imported from India, as provided for in the Annex to this proclamation.

2. Section 504(c) of the 1974 Act (19 U.S.C. 2464(c)), provides that beneficiary developing countries are subject to limitations on the preferential treatment afforded under the GSP. Pursuant to 504(c)(1)(B), I have determined that India should no longer receive preferential tariff treatment under the GSP with respect to certain eligible articles, as provided for in the Annex to this proclamation.

3. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

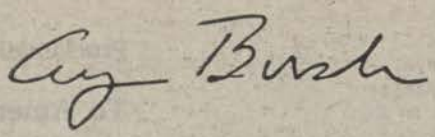
NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 501, 502(c), 504, and 604 of the 1974 Act, do proclaim that:

(1) In order to provide that India should no longer be treated as a beneficiary developing country with respect to certain eligible articles for purposes of the GSP program, the HTS is modified as provided in the Annex to this proclamation.

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(3) The amendments made by this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



Billing code 3195-01-M

Annex

Modifications in the Harmonized Tariff Schedule of the United States (HTS) of an Article's Duty-Free Tariff Treatment with Respect to India under the Generalized System of Preferences (GSP)

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the Federal Register:

(a) For the following HTS provisions, in the Rates of Duty 1-Special subcolumn, delete the symbol "A" and insert an "A*" in lieu thereof:

0713.90.10	2827.34.00	2835.31.00	2901.10.30	2906.29.10
2403.91.20	2827.35.00	2835.39.10	2902.50.00	2906.29.20
2801.30.10	2827.36.00	2835.39.50	2903.11.00	2907.11.00
2804.10.00	2827.37.00	2836.10.00	2903.12.00	2907.12.00
2804.21.00	2827.38.00	2836.20.00	2903.13.00	2907.15.10
2804.29.00	2827.39.10	2836.40.10	2903.14.00	2907.19.40
2804.30.00	2827.39.20	2836.40.20	2903.15.00	2907.22.10
2804.40.00	2827.39.30	2836.60.00	2903.16.00	2907.29.10
2805.22.10	2827.39.50	2836.70.00	2903.19.10	2907.29.20
2805.40.00	2827.41.00	2836.91.00	2903.19.50	2908.10.15
2806.20.00	2827.49.10	2836.92.00	2903.21.00	2908.10.20
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2811.21.00	2827.59.30	2837.20.10	2903.30.20	2909.19.10
2811.22.10	2827.59.50	2837.20.50	2903.51.00	2909.19.50
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2813.10.00	2829.19.00	2839.90.00	2903.61.30	2909.41.00
2813.90.50	2829.90.10	2840.11.00	2903.69.05	2909.42.00
2815.30.00	2829.90.50	2840.19.00	2903.69.30	2909.43.00
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(a) (con.)

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2916.20.00	2921.42.24	2932.13.00	2936.10.00	3206.41.00
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2917.12.20	2922.19.50	2933.11.00	2936.90.00	3208.10.00
2917.13.00	2922.29.23	2933.19.25	2937.10.00	3208.20.00
2917.14.10	2922.29.25	2933.19.30	2937.21.00	3208.90.00
2917.14.50	2922.29.29	2933.19.35	2937.22.00	3209.10.00
2917.19.15	2922.30.50	2933.19.45	2937.29.00	3209.90.00
2917.19.17	2922.41.00	2933.19.50	2937.91.00	3210.00.00
2917.19.23	2922.42.50	2933.21.00	2938.10.00	3212.10.00

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(a) (con.)

3212.90.00	3307.49.00	3504.00.50	3702.95.00	3809.91.00
3213.10.00	3307.90.00	3505.10.00	3703.10.30	3811.11.10
3213.90.00	3401.11.10	3505.20.00	3703.10.60	3811.11.50
3214.10.00	3401.11.50	3506.10.50	3703.20.30	3812.20.10
3215.11.00	3401.19.00	3506.91.00	3703.20.60	3812.30.20
3215.19.00	3401.20.00	3506.99.00	3703.90.30	3813.00.50
3215.90.10	3402.11.10	3507.90.00	3703.90.60	3814.00.20
3215.90.50	3402.11.50	3601.00.00	3706.10.30	3815.90.10
3301.19.10	3402.12.10	3603.00.30	3707.10.00	3815.90.20
3301.24.00	3402.12.50	3603.00.60	3707.90.30	3816.00.00
3301.29.10	3402.13.10	3603.00.90	3707.90.60	3817.10.50
3301.29.20	3402.13.20	3604.10.00	3801.10.10	3823.20.00
3301.30.10	3402.13.50	3604.90.00	3801.30.00	3823.30.00
3302.10.10	3402.19.10	3606.90.60	3801.90.00	3823.60.00
3302.10.20	3402.19.50	3701.10.00	3802.10.00	3823.90.19
3302.90.10	3402.20.10	3701.20.00	3802.90.10	3823.90.22
3302.90.20	3402.90.30	3701.30.00	3802.90.20	3823.90.25
3303.00.20	3402.90.50	3701.91.00	3802.90.50	3823.90.31
3303.00.30	3403.11.40	3701.99.30	3805.10.00	3823.90.32
3304.10.00	3403.11.50	3701.99.60	3806.10.00	3823.90.33
3304.20.00	3403.19.50	3702.10.00	3806.20.00	3823.90.34
3304.30.00	3403.91.10	3702.20.00	3806.30.00	3823.90.36
3304.91.00	3404.20.00	3702.31.00	3807.00.00	3823.90.46
3304.99.00	3405.10.00	3702.32.00	3808.10.10	4104.29.30
3305.10.00	3405.20.00	3702.39.00	3808.10.20	5208.31.20
3305.20.00	3405.30.00	3702.41.00	3808.10.30	5208.32.10
3305.30.00	3405.40.00	3702.42.00	3808.20.10	5208.41.20
3305.90.00	3405.90.00	3702.43.00	3808.20.20	5208.42.10
3306.10.00	3406.00.00	3702.44.00	3808.20.30	5208.51.20
3306.90.00	3407.00.20	3702.51.00	3808.30.10	5208.52.10
3307.10.10	3501.10.10	3702.52.00	3808.30.20	5209.31.30
3307.10.20	3501.90.20	3702.53.00	3808.40.10	5209.41.30
3307.20.00	3501.90.50	3702.54.00	3808.40.50	5310.90.00
3307.30.10	3503.00.10	3702.91.00	3808.90.10	5702.20.10
3307.30.50	3503.00.55	3702.92.00	3808.90.20	6304.99.25
3307.41.00	3504.00.10	3702.93.00	3809.10.00	7012.00.00

(b) General note 3(c)(ii)(D) to the HTS is modified--

(1) by adding, in numerical sequence, the following HTS provisions and the country set opposite them:

0713.90.10	India	2816.30.00	India	2826.11.10	India
2403.91.20	India	2818.10.20	India	2826.11.50	India
2801.30.10	India	2819.10.00	India	2826.19.00	India
2804.10.00	India	2819.90.00	India	2826.20.00	India
2804.21.00	India	2820.10.00	India	2826.90.00	India
2804.29.00	India	2820.90.00	India	2827.10.00	India
2804.30.00	India	2821.10.00	India	2827.31.00	India
2804.40.00	India	2821.20.00	India	2827.33.00	India
2805.22.10	India	2822.00.00	India	2827.34.00	India
2805.40.00	India	2823.00.00	India	2827.35.00	India
2806.20.00	India	2824.10.00	India	2827.36.00	India
2810.00.00	India	2824.20.00	India	2827.37.00	India
2811.19.10	India	2824.90.10	India	2827.38.00	India
2811.19.50	India	2824.90.50	India	2827.39.10	India
2811.21.00	India	2825.10.00	India	2827.39.20	India
2811.22.10	India	2825.20.00	India	2827.39.30	India
2811.23.00	India	2825.30.00	India	2827.39.50	India
2811.29.50	India	2825.50.10	India	2827.41.00	India
2812.10.50	India	2825.50.20	India	2827.49.10	India
2812.90.00	India	2825.50.30	India	2827.49.50	India
2813.10.00	India	2825.60.00	India	2827.51.10	India
2813.90.50	India	2825.70.00	India	2827.51.20	India
2815.30.00	India	2825.90.10	India	2827.59.30	India
2816.10.00	India	2825.90.20	India	2827.59.50	India
2816.20.00	India	2825.90.60	India	2827.60.20	India

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(b)(1) (con.)

2827.60.50	India	2841.20.00	India	2905.21.00	India
2828.10.00	India	2841.30.00	India	2905.22.10	India
2828.90.00	India	2841.40.00	India	2905.22.20	India
2829.19.00	India	2841.50.00	India	2905.22.50	India
2829.90.10	India	2841.60.00	India	2905.29.00	India
2829.90.50	India	2841.70.10	India	2905.31.00	India
2830.10.00	India	2841.70.50	India	2905.32.00	India
2830.20.00	India	2841.90.10	India	2905.39.10	India
2830.30.00	India	2841.90.20	India	2905.39.20	India
2830.90.00	India	2841.90.30	India	2905.39.50	India
2831.10.00	India	2841.90.50	India	2905.41.00	India
2831.90.00	India	2842.90.00	India	2905.42.00	India
2832.10.00	India	2843.21.00	India	2905.43.00	India
2832.20.00	India	2843.29.00	India	2905.44.00	India
2832.30.10	India	2843.30.00	India	2905.49.10	India
2832.30.50	India	2843.90.00	India	2905.49.20	India
2833.11.50	India	2844.10.10	India	2905.49.50	India
2833.21.00	India	2844.30.10	India	2905.50.10	India
2833.23.00	India	2844.30.50	India	2905.50.50	India
2833.24.00	India	2846.10.00	India	2906.13.10	India
2833.25.00	India	2846.90.50	India	2906.13.50	India
2833.26.00	India	2847.00.00	India	2906.14.00	India
2833.27.00	India	2848.10.00	India	2906.19.00	India
2833.29.10	India	2849.10.00	India	2906.29.10	India
2833.29.30	India	2849.20.20	India	2906.29.20	India
2833.29.50	India	2849.90.10	India	2907.11.00	India
2833.30.00	India	2849.90.20	India	2907.12.00	India
2833.40.10	India	2849.90.50	India	2907.15.10	India
2833.40.20	India	2850.00.07	India	2907.19.40	India
2833.40.50	India	2850.00.20	India	2907.22.10	India
2834.10.10	India	2850.00.50	India	2907.29.10	India
2834.10.50	India	2851.00.00	India	2907.29.20	India
2834.22.00	India	2901.10.30	India	2908.10.15	India
2834.29.20	India	2902.50.00	India	2908.10.20	India
2834.29.50	India	2903.11.00	India	2908.90.04	India
2835.10.00	India	2903.12.00	India	2908.90.30	India
2835.21.00	India	2903.13.00	India	2909.11.00	India
2835.22.00	India	2903.14.00	India	2909.19.10	India
2835.23.00	India	2903.15.00	India	2909.19.50	India
2835.24.00	India	2903.16.00	India	2909.20.00	India
2835.29.50	India	2903.19.10	India	2909.30.10	India
2835.31.00	India	2903.19.50	India	2909.30.20	India
2835.39.10	India	2903.21.00	India	2909.30.30	India
2835.39.50	India	2903.22.00	India	2909.41.00	India
2836.10.00	India	2903.23.00	India	2909.42.00	India
2836.20.00	India	2903.29.00	India	2909.43.00	India
2836.40.10	India	2903.30.20	India	2909.44.00	India
2836.40.20	India	2903.51.00	India	2909.49.05	India
2836.60.00	India	2903.59.10	India	2909.49.20	India
2836.70.00	India	2903.59.30	India	2909.49.50	India
2836.91.00	India	2903.59.50	India	2909.50.20	India
2836.92.00	India	2903.61.10	India	2909.50.40	India
2836.93.00	India	2903.61.30	India	2909.60.50	India
2836.99.10	India	2903.69.05	India	2910.10.00	India
2836.99.50	India	2903.69.30	India	2910.20.00	India
2837.20.10	India	2904.20.30	India	2910.30.00	India
2837.20.50	India	2904.20.50	India	2910.90.10	India
2838.00.00	India	2904.90.04	India	2910.90.50	India
2839.11.00	India	2904.90.15	India	2911.00.00	India
2839.19.00	India	2904.90.50	India	2912.11.00	India
2839.20.00	India	2905.11.20	India	2912.12.00	India
2839.90.00	India	2905.12.00	India	2912.13.00	India
2840.11.00	India	2905.13.00	India	2912.19.10	India
2840.19.00	India	2905.14.00	India	2912.19.20	India
2840.20.00	India	2905.15.00	India	2912.19.30	India
2840.30.00	India	2905.16.00	India	2912.19.40	India
2841.10.00	India	2905.19.00	India	2912.19.50	India

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(b)(1) (con.)

2912.29.10	India	2916.31.20	India	2921.43.18	India
2912.29.50	India	2916.33.20	India	2921.49.20	India
2912.30.20	India	2916.39.08	India	2921.49.30	India
2912.30.50	India	2916.39.12	India	2921.51.20	India
2912.41.00	India	2916.39.16	India	2922.11.00	India
2912.42.00	India	2916.39.20	India	2922.12.00	India
2912.49.10	India	2917.11.00	India	2922.13.00	India
2912.49.20	India	2917.12.20	India	2922.19.50	India
2912.49.50	India	2917.13.00	India	2922.29.23	India
2912.50.00	India	2917.14.10	India	2922.29.25	India
2912.60.00	India	2917.14.50	India	2922.29.29	India
2913.00.50	India	2917.19.15	India	2922.30.50	India
2914.12.00	India	2917.19.17	India	2922.41.00	India
2914.13.00	India	2917.19.23	India	2922.42.50	India
2914.19.00	India	2917.19.30	India	2922.49.40	India
2914.21.20	India	2917.19.50	India	2922.49.50	India
2914.22.10	India	2917.31.00	India	2922.50.19	India
2914.22.20	India	2917.32.00	India	2922.50.50	India
2914.23.00	India	2917.33.00	India	2923.10.00	India
2914.29.10	India	2917.34.00	India	2923.20.00	India
2914.29.50	India	2917.35.00	India	2923.90.00	India
2914.30.00	India	2917.37.00	India	2924.10.10	India
2914.41.00	India	2917.39.20	India	2924.21.10	India
2914.49.50	India	2918.11.10	India	2924.21.15	India
2914.50.50	India	2918.11.50	India	2924.21.50	India
2914.69.10	India	2918.12.00	India	2924.29.02	India
2914.70.10	India	2918.13.10	India	2924.29.04	India
2914.70.50	India	2918.13.20	India	2924.29.07	India
2915.11.00	India	2918.13.30	India	2924.29.13	India
2915.12.00	India	2918.13.50	India	2924.29.14	India
2915.13.10	India	2918.14.00	India	2924.29.15	India
2915.13.50	India	2918.15.10	India	2924.29.19	India
2915.21.00	India	2918.15.50	India	2924.29.25	India
2915.22.00	India	2918.16.10	India	2924.29.35	India
2915.23.00	India	2918.16.50	India	2924.29.39	India
2915.24.00	India	2918.17.10	India	2924.29.42	India
2915.29.00	India	2918.19.60	India	2924.29.50	India
2915.32.00	India	2918.21.10	India	2925.11.00	India
2915.33.00	India	2918.22.50	India	2925.19.50	India
2915.34.00	India	2918.23.10	India	2925.20.50	India
2915.35.00	India	2918.23.20	India	2926.10.00	India
2915.39.10	India	2918.29.22	India	2926.90.21	India
2915.39.20	India	2918.29.30	India	2926.90.23	India
2915.39.40	India	2918.30.50	India	2926.90.25	India
2915.39.45	India	2918.90.10	India	2926.90.27	India
2915.39.47	India	2918.90.20	India	2927.00.15	India
2915.39.50	India	2918.90.35	India	2927.00.20	India
2915.40.10	India	2918.90.50	India	2927.00.30	India
2915.40.50	India	2919.00.10	India	2928.00.10	India
2915.50.10	India	2919.00.50	India	2928.00.30	India
2915.50.20	India	2920.10.10	India	2928.00.50	India
2915.50.50	India	2920.10.20	India	2929.10.15	India
2915.60.10	India	2920.10.50	India	2929.10.30	India
2915.60.50	India	2920.90.10	India	2930.10.00	India
2915.70.00	India	2920.90.50	India	2930.20.10	India
2915.90.10	India	2921.11.00	India	2930.20.50	India
2915.90.20	India	2921.12.00	India	2930.30.00	India
2915.90.50	India	2921.19.10	India	2930.40.00	India
2916.12.10	India	2921.19.50	India	2930.90.10	India
2916.12.50	India	2921.21.00	India	2930.90.30	India
2916.14.00	India	2921.22.05	India	2930.90.40	India
2916.15.50	India	2921.22.50	India	2930.90.50	India
2916.19.10	India	2921.29.00	India	2931.00.25	India
2916.19.20	India	2921.30.50	India	2931.00.50	India
2916.19.50	India	2921.42.23	India	2932.11.00	India
2916.20.00	India	2921.42.24	India	2932.13.00	India
2916.31.10	India	2921.42.25	India	2932.19.50	India

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(b)(1) (con.)

2932.21.00	India	2936.22.00	India	3206.43.00	India
2932.29.10	India	2936.24.00	India	3206.49.10	India
2932.29.50	India	2936.25.00	India	3206.49.30	India
2932.90.10	India	2936.27.00	India	3206.49.50	India
2932.90.20	India	2936.28.00	India	3207.10.00	India
2932.90.37	India	2936.29.15	India	3207.20.00	India
2932.90.50	India	2936.29.50	India	3207.30.00	India
2933.11.00	India	2936.90.00	India	3208.10.00	India
2933.19.25	India	2937.10.00	India	3208.20.00	India
2933.19.30	India	2937.21.00	India	3208.90.00	India
2933.19.35	India	2937.22.00	India	3209.10.00	India
2933.19.45	India	2937.29.00	India	3209.90.00	India
2933.19.50	India	2937.91.00	India	3210.00.00	India
2933.21.00	India	2938.10.00	India	3212.10.00	India
2933.29.20	India	2938.90.00	India	3212.90.00	India
2933.29.45	India	2939.10.50	India	3213.10.00	India
2933.29.50	India	2939.30.00	India	3213.90.00	India
2933.39.21	India	2939.50.00	India	3214.10.00	India
2933.39.23	India	2939.60.00	India	3215.11.00	India
2933.39.27	India	2939.70.00	India	3215.19.00	India
2933.40.30	India	2939.90.10	India	3215.90.10	India
2933.51.10	India	2939.90.50	India	3215.90.50	India
2933.59.10	India	2940.00.00	India	3301.19.10	India
2933.59.15	India	2941.10.20	India	3301.24.00	India
2933.59.18	India	2941.20.00	India	3301.29.10	India
2933.59.20	India	2941.30.00	India	3301.29.20	India
2933.59.23	India	2941.50.00	India	3301.30.10	India
2933.59.30	India	2941.90.10	India	3302.10.10	India
2933.59.50	India	2941.90.50	India	3302.10.20	India
2933.61.00	India	2942.00.50	India	3302.90.10	India
2933.69.00	India	3001.10.00	India	3302.90.20	India
2933.71.00	India	3001.20.00	India	3303.00.20	India
2933.79.20	India	3002.90.10	India	3303.00.30	India
2933.79.30	India	3003.31.00	India	3304.10.00	India
2933.79.50	India	3003.39.10	India	3304.20.00	India
2933.90.15	India	3003.40.00	India	3304.30.00	India
2933.90.18	India	3003.90.00	India	3304.91.00	India
2933.90.20	India	3004.10.10	India	3304.99.00	India
2933.90.25	India	3004.20.00	India	3305.10.00	India
2933.90.31	India	3004.31.00	India	3305.20.00	India
2933.90.40	India	3004.32.00	India	3305.30.00	India
2933.90.48	India	3004.39.00	India	3305.90.00	India
2933.90.50	India	3004.40.00	India	3306.10.00	India
2934.10.50	India	3004.50.30	India	3306.90.00	India
2934.20.05	India	3004.50.50	India	3307.10.10	India
2934.20.10	India	3004.90.30	India	3307.10.20	India
2934.20.15	India	3004.90.60	India	3307.20.00	India
2934.20.35	India	3005.10.10	India	3307.30.10	India
2934.90.10	India	3005.10.50	India	3307.30.50	India
2934.90.12	India	3005.90.10	India	3307.41.00	India
2934.90.14	India	3005.90.50	India	3307.49.00	India
2934.90.16	India	3006.10.00	India	3307.90.00	India
2934.90.18	India	3006.40.00	India	3401.11.10	India
2934.90.20	India	3006.50.00	India	3401.11.50	India
2934.90.25	India	3006.60.00	India	3401.19.00	India
2934.90.47	India	3201.90.10	India	3401.20.00	India
2934.90.50	India	3201.90.50	India	3402.11.10	India
2935.00.05	India	3202.10.10	India	3402.11.50	India
2935.00.20	India	3202.90.50	India	3402.12.10	India
2935.00.30	India	3204.19.35	India	3402.12.50	India
2935.00.31	India	3204.90.00	India	3402.13.10	India
2935.00.33	India	3205.00.20	India	3402.13.20	India
2935.00.37	India	3206.10.00	India	3402.13.50	India
2935.00.43	India	3206.20.00	India	3402.19.10	India
2935.00.44	India	3206.30.00	India	3402.19.50	India
2936.10.00	India	3206.41.00	India	3402.20.10	India
2936.21.00	India	3206.42.00	India	3402.90.30	India

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(b)(1) (con.)

3402.90.50	India	3702.39.00	India	3808.40.10	India
3403.11.40	India	3702.41.00	India	3808.40.50	India
3403.11.50	India	3702.42.00	India	3808.90.10	India
3403.19.50	India	3702.43.00	India	3808.90.20	India
3403.91.10	India	3702.44.00	India	3809.10.00	India
3404.20.00	India	3702.51.00	India	3809.91.00	India
3405.10.00	India	3702.52.00	India	3811.11.10	India
3405.20.00	India	3702.53.00	India	3811.11.50	India
3405.30.00	India	3702.54.00	India	3812.20.10	India
3405.40.00	India	3702.91.00	India	3812.30.20	India
3405.90.00	India	3702.92.00	India	3813.00.50	India
3406.00.00	India	3702.93.00	India	3814.00.20	India
3407.00.20	India	3702.95.00	India	3815.90.10	India
3501.10.10	India	3703.10.30	India	3815.90.20	India
3501.90.20	India	3703.10.60	India	3816.00.00	India
3501.90.50	India	3703.20.30	India	3817.10.50	India
3503.00.10	India	3703.20.60	India	3823.20.00	India
3503.00.55	India	3703.90.30	India	3823.30.00	India
3504.00.10	India	3703.90.60	India	3823.60.00	India
3504.00.50	India	3706.10.30	India	3823.90.19	India
3505.10.00	India	3707.10.00	India	3823.90.22	India
3505.20.00	India	3707.90.30	India	3823.90.25	India
3506.10.50	India	3707.90.60	India	3823.90.31	India
3506.91.00	India	3801.10.10	India	3823.90.32	India
3506.99.00	India	3801.30.00	India	3823.90.33	India
3507.90.00	India	3801.90.00	India	3823.90.34	India
3601.00.00	India	3802.10.00	India	3823.90.36	India
3603.00.30	India	3802.90.10	India	3823.90.46	India
3603.00.60	India	3802.90.20	India	4104.29.30	India
3603.00.90	India	3802.90.50	India	5208.31.20	India
3604.10.00	India	3805.10.00	India	5208.32.10	India
3604.90.00	India	3806.10.00	India	5208.41.20	India
3606.90.60	India	3806.20.00	India	5208.42.10	India
3701.10.00	India	3806.30.00	India	5208.51.20	India
3701.20.00	India	3807.00.00	India	5208.52.10	India
3701.30.00	India	3808.10.10	India	5209.31.30	India
3701.91.00	India	3808.10.20	India	5209.41.30	India
3701.99.30	India	3808.10.30	India	5310.90.00	India
3701.99.60	India	3808.20.10	India	5702.20.10	India
3702.10.00	India	3808.20.20	India	6304.99.25	India
3702.20.00	India	3808.20.30	India	7012.00.00	India
3702.31.00	India	3808.30.10	India		
3702.32.00	India	3808.30.20	India		

(2) by adding, in alphabetical order, the country opposite the following HTS subheadings:

2804.69.10	India	2918.22.10	India	3203.00.50	India
2825.90.15	India	2918.90.30	India	3207.40.10	India
2827.59.05	India	2929.90.50	India	3301.12.00	India
2903.40.00	India	2933.39.25	India	3402.90.10	India
2903.59.40	India	2933.40.10	India	3823.90.40	India
2906.11.00	India	2933.90.47	India		
2915.31.00	India	2937.92.10	India		

[FR Doc. 92-10468
Filed 4-30-92; 2:11 pm]
Billing code 3195-01-C

Presidential Documents

Presidential Determination No. 92–12 of January 31, 1992

Renewal of Trade Agreement With the People's Republic of China

Memorandum for the United States Trade Representative

Pursuant to my authority under subsection 405(b)(1) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)), I have determined that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the People's Republic of China. I have further found that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement on Trade Relations between the United States of America and the People's Republic of China.

You are authorized and directed to publish this memorandum in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, January 31, 1992.

[FR Doc. 92–10463
Filed 4–30–92; 2:32 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 57, No. 86
Monday, May 4, 1992

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-ANE-43; Amendment 39-8086, AD 92-24-01]

Airworthiness Directives; General Electric Company CF6-6 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) applicable to General Electric (GE) CF6-6 series turbofan engines that currently requires initial and repetitive inspection of the compressor rear frame (CRF) manifold port plug weld for cracks, and removal from service of certain CRF casings. This amendment increases the number of CRF casings to be inspected, reduces inspection intervals, and requires CRF rework. This amendment is prompted by the results of further investigation of a CRF outer case failure. The actions specified by this AD are intended to prevent rupture of the CRF casing that could result in an engine shutdown, aircraft damage, and an aborted takeoff.

DATES: Effective May 26, 1992.

The incorporation by reference of General Electric CF6-6 Service Bulletin 72-971, dated October 2, 1990, was approved by the Director of the **Federal Register** on December 11, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 26, 1992.

Comments for inclusion in the Rules Docket must be received on or before July 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-ANE-43, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

The service information referenced in this AD may be obtained from General Electric Aircraft Engines, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (617) 272-5047; fax (617) 270-2412.

SUPPLEMENTARY INFORMATION: On November 21, 1990, Airworthiness Directive (AD) 90-24-12, Amendment 39-6808 (55 FR 48591) was published in the **Federal Register**. This AD requires initial and repetitive inspections of the General Electric (GE) CF6-6 series turbofan engine compressor rear frame (CRF), and removal of cracked CRF's in accordance with GE CF6-6 Service Bulletin (SB) 72-971, dated October 2, 1990. That action was prompted by the report of a CRF outer case rupture at the compressor discharge pressure (CDP) manifold port plug. That failure resulted in an engine shutdown, aborted takeoff and damage to the aircraft, specifically the engine pylon and horizontal stabilizer.

A subsequent metallurgical examination of the fracture surface revealed lack of fusion in the manifold port plug electron beam weld. A low cycle fatigue crack initiated and propagated to critical length resulting in an axial rupture of the CRF outer case at the twelve o'clock position. That condition, if not corrected, can result in an engine shutdown, aircraft damage, and an aborted takeoff.

Since issuance of AD 90-24-12, the FAA has determined that additional CRF's are affected, and that these additional CRF's must be inspected. This AD will require compliance with GE CF6-6 SB 72-971, Revision 2, dated August 27, 1991, which lists the additional affected part numbers. The revised service bulletin also reduces certain inspection intervals, but provides that the intervals may be increased if an optional ultrasonic inspection is performed in addition to the required inspection methods. Finally, as a terminating action to this AD, a shop level inspection and rework of the CRF as described in GE CF6-6 SB 72-977, dated March 15, 1991, have been added that eliminates the repetitive installed inspection requirement.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes AD 90-24-12 to require initial and repetitive inspections of the CRF and removal of cracked CRF's. The actions are required to be accomplished in accordance with the service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communication received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted

will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-ANE-43". The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-6808 (55 FR 48591, November 21, 1990), and by adding the following new airworthiness directive (AD):

91-24-01—General Electric Company: Amendment 39-8086, Docket No. 91-ANE-43. Supersedes AD 90-24-12, Amendment 39-6808.

Applicability: General Electric Company (GE) CF6-6 series turbofan engines installed on but not limited to McDonnell-Douglas DC-10 aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent rupture of the compressor rear frame (CRF) casing that could result in an engine shutdown, aircraft damage, and aborted takeoff, accomplish the following:

(a) At the next scheduled open cowl check, but not later than 100 cycles in service (CIS) after the effective date of this AD, inspect the CRF outer case compressor discharge pressure (CDP) manifold port plug weld area for cracks in accordance with GE CF6-6 Service Bulletin (SB) 72-971, Revision 2, dated August 27, 1991.

(b) Remove from service, prior to further flight, CRF casings which exceed the serviceable limits specified in table 1 or table 2, as applicable, of GE CF6-6 SB 72-971, Revision 2, dated August 27, 1991.

(c) For engines with CRF casings inspected after December 11, 1990 (the effective date of AD 90-24-12), reinspect and remove from service CRF casings in accordance with the inspection intervals and crack limits specified in table 1 of GE CF6-6 SB 72-971, dated October 2, 1990, until the first scheduled inspection after the effective date of this AD.

(d) Thereafter, reinspect and remove from service CRF casings in accordance with the inspection intervals and crack limits specified in table 1 or table 2, as applicable, of GE CF6-6 SB 72-971, Revision 2, dated August 27, 1991.

(e) At the next shop visit, but not later than 4,500 CIS after the effective date of this AD, perform a visual, fluorescent-penetrant, and radiographic inspection of the CRF, and rework the CRF in accordance with GE CF6-6 SB 72-977, dated March 15, 1991.

(f) For the purpose of this AD, a shop visit is defined as the CRF exposed at the piece-part level.

(g) Compliance with paragraph (e) of this AD constitutes terminating action for the inspection requirements of paragraphs (a), (b), (c), and (d).

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Engine Certification Office.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(j) The reinspections and removal of CRF casings shall be done in accordance with General Electric CF6-6 Service Bulletin 72-971, dated October 2, 1990. This incorporation by reference was previously approved by the Director of the Federal Register at 55 FR 48591 (December 11, 1990) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of General Electric service bulletins may be obtained from General Electric Aircraft Engines, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, room 311, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(k) The inspections and rework shall be done in accordance with the following General Electric Company documents:

Document No.	Page No.	Issue/Rev.	Date
GE CF6-6 SB 72-971.	1-11	Revision 2	8/27/91
Total: 12 pages.	12	Original	10/2/90
GE CF6-6 SB 72-977.	1-34	Original	3/15/91
Total: 34 pages.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of General Electric service bulletins may be obtained from General Electric Aircraft Engines, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, room 311, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, D.C.

(l) This amendment becomes effective on May 26, 1992.

Issued in Burlington, Massachusetts, on March 31, 1992.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-10288 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket NO. 91-ANE-36; Amendment 39-8088, AD 91-24-03]

Airworthiness Directives; Pratt & Whitney Canada PW100 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) applicable to Pratt & Whitney Canada (PWC) PW123 and PW124B turboprop engines that currently requires repetitive turbomachinery magnetic chip detector (MCD) inspections to identify impending bearing failures, and a one-time inspection of the rear inlet case oil system. This amendment includes the repetitive MCD inspections of the AD being superseded, increases the model effectivity to include the PW125B and PW126A turboprop engines, and requires the incorporation of an improved design low pressure (LP) rotor balancing assembly as a terminating action to the inspection program. This amendment is prompted by the availability of the improved design LP rotor balancing assembly and the need to increase model effectivity. The actions specified by this AD are intended to prevent a low pressure turbine (LPT) overspeed, uncontained disk failure, and subsequent damage to the aircraft.

DATES: Effective May 26, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 26, 1992.

Comments for inclusion in the Rules Docket must be received on or before July 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-ANE-36, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

The service information referenced in this AD may be obtained from Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (617) 272-5047; fax (617) 270-2412.

SUPPLEMENTARY INFORMATION: On November 6, 1990, the Federal Aviation Administration (FAA) issued Airworthiness Directive (AD) 90-24-05, Amendment 39-6812 (55 FR 47848, November 16, 1990), to require repetitive magnetic chip detector (MCD) inspections to identify impending bearing failures, and a one-time inspection of the rear inlet case oil system. That action was prompted by a reported No. 2 bearing failure which caused the low pressure turbine (LPT) integral stub shaft to fracture, resulting in an LPT overspeed and an uncontained LPT disk failure. The bearing failure was caused by oil starvation due to an obstructed oil jet. This condition, if not corrected, can result in an LPT overspeed, uncontained disk failure, and subsequent damage to the aircraft.

One commenter responded to that final rule (AD 90-24-05). The commenter has no objection to the initial inspection for new engines. However, this commenter does not agree with the repetitive inspection intervals. This commenter states that normal maintenance inspection intervals will adequately detect developing problems on the PW123 and PW124B engines, and that additional repetitive inspections are a burden and do very little, if any, good in improving the level of safety. The FAA does not concur with the commenter's assertions. The data received was not sufficient to change the rule. However, the FAA will take into consideration a change to the rule when sufficient data has been submitted to justify a change. Therefore, the reinspection intervals will remain in the rule.

Since issuance of AD 90-24-05, the FAA has determined that an improved design low pressure (LP) rotor balancing assembly is available which would eliminate the need for repetitive inspections of the turbomachinery MCD and the one-time inspection of the rear inlet case oil system as required by the existing AD. This AD also increases the number of engines affected. The PW125B and PW126A model engines have a similar LPT design to the engine which experienced the reported No. 2 bearing failure. The FAA has therefore determined that these additional PW100 models must be included in the AD.

The FAA has reviewed and approved the technical contents of Pratt & Whitney Canada (PWC) Service Bulletin (SB) No. 21018, Revision 2, dated November 25, 1991, that describes the improved design LP rotor balancing assembly and lists the increased number of engines affected; and PWC SB No. 20938, Revision 2, dated November 18, 1991, that describes the repetitive inspections of the turbomachinery MCD.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD supersedes AD 90-24-05 to require incorporation of the improved design LP rotor balancing assembly, increase the number of engines affected by including additional engine models, PW125B and PW126A, and continue the previous MCD inspection requirements. Since there is no change in the inspection requirements of this AD from those required by AD 90-24-05, credit will be given for inspections performed in accordance with the requirements of AD 90-24-05. The actions are required to be accomplished in accordance with the service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communication received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted

will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt off their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–ANE–36". The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6812 (55 FR 47848, November 6, 1990), and by adding the following new airworthiness directive (AD):

91–24–03—Pratt & Whitney Canada: Amendment 39–8088, Docket No. 91–ANE–36. Supersedes AD 90–24–05, Amendment 39–6812.

Applicability: Pratt & Whitney Canada (PWC) PW123, PW124B, PW125B, and PW126A turboprop engines installed on but not limited to DeHavilland Dash 8 Series 300, Aerospatiale ATR72, Fokker 50, and British Aerospace ATP aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent a low pressure turbine (LPT) overspeed, that could result in uncontained disk failure, and subsequent damage to the aircraft, accomplish the following:

(a) For PW123 and PW124B engines that have not been modified in accordance with any revision level of PWC Service Bulletin (SB) 21018, prior to the effective date of this AD, accomplish the following:

(1) Within 5 days after the effective date of this AD, perform a turbomachinery magnetic chip detector (MCD) continuity check in accordance with PWC SB 20938, Revision 2, dated November 18, 1991.

(2) Within 5 days after the effective date of this AD, perform a turbomachinery MCD functional check in accordance with PWC SB 20938, Revision 2, dated November 18, 1991.

(3) Thereafter, at intervals not to exceed 25 flight hours since last inspection, perform the turbomachinery MCD continuity check specified in paragraph (a)(1) of this AD.

(4) Thereafter, at intervals not to exceed 300 flight hours since last inspection, perform the turbomachinery MCD functional check specified in paragraph (a)(2) of this AD.

(b) In addition to the requirements of paragraph (a) of this AD, for PW123 engines that have not been modified in accordance with any revision level of PWC SB 21018, prior to the effective date of this AD, accomplish the following:

(1) Within 5 days after the effective date of this AD, perform a turbomachinery MCD airframe circuitry check in accordance with PWC SB 20938, Revision 2, dated November 18, 1991.

(2) Thereafter, at intervals not to exceed 300 flight hours since last inspection, perform turbomachinery MCD airframe circuitry check specified in paragraph (b)(1) of this AD.

(c) For PW125B and PW126A engines have not been modified in accordance with any revision level of PWC SB 21018, prior to the effective date of this AD, accomplish the following:

(1) Within the next 125 flight hours after the effective date of this AD, unless previously accomplished within the last 875 flight hours, perform a turbomachinery MCD operational check in accordance with the applicable engine maintenance manual.

Note: Further information on the turbomachinery MCD operational check specified in paragraph (c)(1) can be found in PWC Maintenance Manual Part Number 3034932 for the PW125B, and PWC Maintenance Manual Part Number 3034922 for the PW126A.

(2) Within the next 125 flight hours after the effective date of this AD, unless previously accomplished within the last 875 flight hours, perform an operational check of the turbomachinery MCD airframe circuitry and indicating system in accordance with the applicable aircraft maintenance manual. NOTE: Further information on the turbomachinery MCD airframe circuitry and indicating system specified in paragraph (c)(2) of this AD can be found in Fokker 50 Maintenance Manual, Chapter 77–33–00, for the PW125B, and BAe ATP Aircraft Maintenance Manual, Chapter 79–33–00, for the PW126A.

(3) Thereafter, at intervals not to exceed 1,000 flight hours since last inspection, perform the turbomachinery MCD operational check specified in paragraph (c)(1) of this AD.

(4) Thereafter, at intervals not to exceed 1,000 flight hours since last inspection, perform the operational check of the turbomachinery MCD airframe circuitry and indicating system in paragraph (c)(2) of this AD.

(d) The initial inspections of paragraphs (a)(1), (a)(2), and (b)(1) of this AD need not be accomplished for those PW123 and PW124B engines previously inspected in accordance with AD 90–24–05.

(e) For engines that have not been modified in accordance with any revision level of PWC SB 21018, prior to the effective date of this AD, incorporate a new low pressure rotor balancing assembly in accordance with PWC SB 21018, Revision 2, dated November 25, 1991, at the next engine shop visit or by June 30, 1994, whichever occurs first. The incorporation of a new low pressure rotor balancing assembly in accordance with this paragraph constitutes a terminating action for paragraphs (a), (b), or (c), as applicable, of this AD.

(f) For the purpose of this AD, an engine shop visit is defined as the induction of an engine into a maintenance facility for the conduct of any type of maintenance.

(g) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Engine Certification Office.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections and modification shall be done in accordance with the following Pratt & Whitney Canada service documents:

Document number	Page no.	Issue/revision	Date
PWC SB 21018R2. Total: 36 pages	1-36	Revision 2	11/25/91
PWC SB 20938R2. Total: 8 pages	1-8	Revision 2	11/18/91

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, room 311, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(j) This amendment becomes effective on May 26, 1992.

Issued in Burlington, Massachusetts, on April 2, 1992.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-10289 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 92-AEA-4]

Alteration of VOR Federal Airways, Compulsory Reporting Point, and Jet Route J-191; DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of Federal Airways V-16, V-29, V-157, V-213, V-268, V-379; Jet Route J-191; and the compulsory reporting point in the State of Delaware by renaming the Kenton, DE, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) to Smyrna, DE, VORTAC. There will be no physical change to the airway structure as these amendments will only reflect a name change from Kenton, DE, VORTAC to Smyrna, DE, VORTAC. The renaming of the Kenton VORTAC is necessary to eliminate similar sounding names for navigational facilities in the Washington Air Route Traffic Control Center's areas.

EFFECTIVE DATE: 0901 u.t.c., June 25, 1992.

FOR FURTHER INFORMATION CONTACT: Particia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9255.

The Rule

These amendments to part 71 of the Federal Aviation Regulations alter the descriptions of V-16, V-29, V-157, V-213, V-268, V-379; Jet Route J-191; and the Kenton, DE, Compulsory Reporting Point by renaming the Kenton VORTAC to the Smyrna VORTAC. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are inconsequential technical amendments in which the public would have little or no interest. The VOR Federal airways, jet route, and compulsory reporting point listed in this document will be published as amended in §§ 71.123, 71.203, and 75.100 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways, Compulsory reporting points, Jet routes, Incorporation by reference.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C App. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V-16

From Los Angeles, CA, Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; Cochise, AZ; Columbus, NM; El Paso, TX; Salt Flat, TX; Wink, TX; Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Millsap, TX; Acton, TX; Scurry, TX; Quitman, TX; Texarkana, AR, Pine Bluff, AR; Holly Springs, MS; Jacks Creek, TN; Graham, TN; Nashville, TN; INT Nashville 102° and Hinch Mountain, TN, 285° radials; Hinch Mountain; Knoxville, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake, NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Calverton, NY; Norwich, CT; Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R-5002A, R-5002C and R-5002D is excluded during their times of use. The airspace within Restricted Areas R-4005 and R-4006 is excluded.

* * * * *

V-29

From Snow Hill, MD; Salisbury, MD; Smyrna, DE; DUPONT, DE; Modena, PA; Pottstown, PA; East Texas, PA; Wilkes-Barre, PA; Binghamton, NY; INT Binghamton 005° and Syracuse, NY, 169° radials; Syracuse; Watertown, NY; INT Watertown 033° and Massena, NY, 241° radials; Massena.

* * * * *

V-157

From Key West, FL, Miami, FL; INT Miami 337° and La Belle, FL, 124° radials, La Belle; Lakeland, FL; Ocala, FL; Gainesville, FL; Taylor, FL; Waycross, GA; Alma, GA; Allendale, SC; Vance, SC; Florence, SC. From Kinston, NC, Tar River, NC; Lawrenceville, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Woodstown, NJ; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston, NY; to Albany, NY. The airspace within R-2901A and R-6602A is excluded. The airspace at and above 7,000 feet MSL which lies within the Lake Placid MOA is excluded during the time the Lake Placid MOA is activated. The airspace within R-4005 and R-4006 is excluded.

* * * * *

V–213

From Grand Strand, SC, via Wilmington, NC; INT Wilmington 352° and Tar River, NC, 191° radials; Tar River; Hopewell, VA; INT Hopewell 019° and Brooke, VA, 132° radials; Patuxent River, MD; Smyrna, DE; INT Smyrna 035° and Robbinsville, NJ, 228° radials; Robbinsville; INT Robbinsville 014° and Sparta, NJ, 174° radials; Sparta; to Albany, NY. The airspace within R–4005 and R–4006 is excluded.

* * * * *

V–268

From INT Morgantown, WV, 010° and Johnstown, PA, 260° radials; Indian Head, PA; Hagerstown, MD; Westminster, MD; Baltimore, MD; INT Baltimore 093° and Smyrna, DE, 262° radials; Smyrna; INT Smyrna 086° and Sea Isle, NJ, 050° radials; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Sandy Point, RI; to INT Sandy Point 031° and Providence, RI, 057° radials. The airspace within R–4001 and the airspace below 2,000 feet MSL outside the United States is excluded.

* * * * *

V–379

From Nottingham, MD; to Smyrna, DE.

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Section 71.203 Domestic Low Altitude Reporting Points

* * * * *

Kenton, DE [Remove]

* * * * *

Smyrna, DE [New]

* * * * *

Section 75.100 Jet Routes

* * * * *

J–191

From Robbinsville, NJ, via INT Robbinsville 228° and Smyrna, DE, 035° radials; Smyrna; Patuxent, MD; Hopewell, VA; to Wilmington, NC.

* * * * *

Issued in Washington, DC, on April 23, 1992.

Alton D. Scott III,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–10308 Filed 5–1–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Neomycin Sulfate Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co. The supplemental application provides for the safe and effective use of neomycin sulfate soluble powder for the treatment and control of colibacillosis in cattle (excluding veal calves), swine, sheep, and goats. This amendment of the animal drug regulations also reflects compliance of the drug with FDA conclusions based, in part, upon an evaluation of the effectiveness of the drug by the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group. FDA will require the manufacture, and the distribution by manufacturers, of unapproved neomycin soluble powder to cease after a phaseout period.

EFFECTIVE DATE: May 4, 1992.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8623.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplement to its approved NADA 11–315 for neomycin sulfate soluble powder for the treatment and control of colibacillosis (bacterial enteritis) caused by *Escherichia coli* susceptible to neomycin sulfate in cattle (excluding veal calves), swine, sheep, and goats. The drug is administered at 10 milligrams of neomycin sulfate per pound of body weight per day. The application was originally approved on March 21, 1958. The drug was the subject of an evaluation of effectiveness by NAS/NRC under the agency's Drug Efficacy Study Implementation (DESI) (DESI 11–315V), and the findings of NAS/NRC were published in the **Federal Register** of January 19, 1971 (36 FR 837).

NAS/NRC evaluated the drug as "probably effective" for use in the control and treatment of bacterial enteritis in cattle, horses, sheep, swine, goats, dogs, cats, turkeys, chickens, ducks, and mink, and as a wet antibacterial dressing in swine, cattle, sheep, and dogs. NAS/NRC stated:

(1) The labeling should warn that treated animals must actually consume enough medicated feed or medicated water to provide a therapeutic dose under the conditions that prevail; as a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water or feed;

(2) The labeling should warn that oral neomycin sulfate is not indicated if animals have developed septicemia because systemic levels of neomycin are not obtained due to the low degree of absorption from the gastrointestinal tract;

(3) The disease claims for preparations administered orally must be restricted to disease involving the gastrointestinal tract because of the chemical and pharmacological properties of neomycin sulfate; and

(4) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped.

FDA concurred with the findings of NAS/NRC and interpreted the phrase "* * * cannot be so qualified * * *" in line (4) of NAS/NRC's statement above to mean that the claims are not supported by adequate data. FDA then reviewed all available data relating to the effectiveness of drugs in NADA 11–315 to determine which, if any, label claims were supported by the requisite proof of effectiveness. In a letter dated December 10, 1985, addressed to the Animal Health Institute, the agency stated that it had "concluded that such data supported effectiveness for the treatment and control of colibacillosis (bacterial enteritis) caused by *E. coli* susceptible to neomycin sulfate in cattle, sheep, goats, and swine."

Thereafter, the sponsor brought its drug into compliance with the NAS/NRC/DESI evaluation and the agency's conclusions by submitting a supplemental application providing the indicated labeling revisions.

The NAS/NRC evaluation of the drug is concerned only with effectiveness and safety of the drug for the treated animal and does not take into account the safety of food derived from drug-treated animals. FDA's approval of the supplemental application did not involve a reevaluation or reaffirmation of the human food safety data in the application. Such data will be evaluated and affirmed in accordance with the scheduled priorities of the agency.

Therefore, the regulations are amended by adding new § 520.1484 to reflect approval of a supplemental NADA.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence

supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under the Generic Animal Drug and Patent Term Restoration Act of 1988 (GADPTRA), this approval does not qualify for an exclusivity period under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)) because the supplemental application did not contain reports of new clinical or field investigations or human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

Approval of this supplemental application provides a listed drug that can be the subject of applications under GADPTRA. In the past, FDA has informed manufacturers of neomycin soluble powder that approvals would be required upon completion of the NAS/NRC DESI action. Accordingly, the agency now advises that it is prepared to take regulatory action against such products. In order to provide for an orderly phaseout, the manufacture of neomycin soluble powder that is not the subject of an approved NADA or an abbreviated application shall cease by July 6, 1992, and the distribution by manufacturers of neomycin soluble powder that is not the subject of an approved NADA or abbreviated application shall cease by that date.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above) between 9 a.m. to 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.1484 is added to read as follows:

§ 520.1484 Neomycin sulfate soluble powder.

(a) *Specifications.* The drug contains 20.3 grams of neomycin sulfate per ounce which is equivalent to 14.2 grams of neomycin base.

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 10 milligrams of neomycin sulfate per pound of body weight per day in divided doses for a maximum of 14 days.

(2) *Indications for use.* For the treatment and control of colibacillosis (bacterial enteritis) caused by *Escherichia coli* susceptible to neomycin sulfate in cattle (excluding veal calves), swine, sheep, and goats.

(3) *Limitations.* Add to drinking water or milk; not for use in liquid supplements. Prepare a fresh solution daily. If symptoms persist after using this preparation for 2 or 3 days, consult a veterinarian. Treatment should continue 24 to 48 hours beyond remission of disease symptoms, but not to exceed a total of 14 consecutive days. Discontinue treatment prior to slaughter as follows: cattle and goats, 30 days; swine and sheep, 20 days.

Dated: April 1, 1992.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 92-10318 Filed 5-1-92; 8:45am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 92-31]

Special Local Regulations: Cocoa Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Space Coast Offshore Challenge. The event will be held offshore in Cocoa Beach, Florida from 12 p.m. EDT to 3 p.m. EDT on May 17, 1992. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective from 11 a.m. EDT to 4 p.m. on May 17, 1992.

FOR FURTHER INFORMATION CONTACT: CDR D.P. Rudolph, (904) 247-7318.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The updated information to hold the event was not received until February 3, 1992, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are QM1 Culver, Marine Event Petty Officer, Coast Guard Group Mayport and LT Losego, Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulations

The Space Coast Offshore Challenge has approximately thirty-five (35) offshore powerboat racers participating in the event. It is anticipated that there will be approximately 400 spectator craft. The event will begin 5½ miles south of Cape Canaveral Harbor Entrance and proceed south parallel to the beach approximately 400 yards offshore for a distance of approximately 3½ miles. At the 3½ mile point, the boats will turn towards the ocean then head back north to a point 5½ miles south of the inlet and ½ mile offshore. They will then veer back to the starting point. The entire race consists of six or eight consecutive laps of the above described course. These regulations are required to provide for the safety of life on the navigable waters during the offshore race.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that a full regulatory evaluation is unnecessary. These regulations will be in effect for five hours, and the regulated area encompasses a six mile stretch of water. Further, this event is not expected to affect commercial activities off the coast of Cocoa Beach. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that, if adopted, they will not have a significant

economic impact on a substantial number of small entities.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B and Commandant Instruction 16751.3A, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding the environmental impact of this event, and it was determined that the event does not threaten protected species.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 33—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T0731 is added to read as follows:

§ 100.35–T0731 Cocoa Beach, Florida

(a) *Regulated Area:* A regulated area is established in Cocoa Beach, Florida, for all waters within an area bounded on the west by the coastline lying between latitude 28–22–59 N and 28–15–10–N, with the eastern boundary formed by a line drawn from position 28–23–00 N, 080–35–18 W, south to position 28–19–00 N, 080–35–47 W, and continuing to position 28–15–12 N, 080–35–30 W.

(b) *Special Local Regulations:* Entry into the regulated area is prohibited unless authorized by the Patrol Commander. After termination of the Space Coast Offshore Challenge Race, all vessels may resume normal operations.

(c) *Effective Dates:* These regulations become effective from 11 a.m. EDT to 3 p.m. EDT on May 17, 1992.

Dated: April 20, 1991.

R.E. Kramek,

RADM, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 92–10337 Filed 5–1–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Parts 100 and 165

[CGD 92–031]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between January 1, 1992 and March 31, 1992 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the past published list.

ADDRESSES: The complete text of any temporary regulation may be examined at, and is available on request, from Executive Secretary, Marine Safety Council (G–LRA), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Don Harris, Regulatory Paralegal, Marine Safety Council at (202) 267–1477 between the hours of 8 a.m. and 3:30 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. Non-major safety zones, special local regulations and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period January 1, 1992 through March 31, 1992, unless otherwise indicated.

Docket no.	Location	Type	Effective Date
CGD1–92–005	Lower East River, New York	Security	Jan. 30, 1992.
CGD1–92–006	Lower East River, New York	Security	Jan. 31, 1992.
CGD1–92–009	Upper Hudson River New York	Safety	Feb. 13, 1992.
CGD1–92–020	Kill Van Kull, NY/NJ	Safety	Mar. 22, 1992.
CGD7–91–110	Gulf Intracosastal Waterway, FL	Drawbridge	Jan. 1, 1992.
CGD7–92–020	City of Augusta, Georgia	Special	Mar. 26, 1992.
CGD7–92–012	Hillsborough Bay, Tampad FL	Special	Feb. 1, 1992.
Captain of the Port Regulations			
Charleston 91–104	Cooper River, SC	Safety	Sep. 17, 1991.

Docket no.	Location	Type	Effective Date
Charleston 91-119	ICW/Wappoo Cut Bridge	Safety	Nov. 20, 1991.
Charleston 92-09	Intracoastal Waterway SC	Safety	Jan. 8, 1992.
Chicago 09-92-01	Chicago Harbor/Burnham Pk	Security	Mar. 16, 1992.
Corpus Christi 91-08	GIWW, Laguna Madre	Safety	Sep. 7, 1991.
Corpus Christi 91-09	GIWW, Laguna Madre	Safety	Sep. 16, 1991.
Galveston 91-01	GIWW, MM 315 to 325	Safety	Sep. 8, 1991.
Hampton Rds 92-05-01	Chesapeake Bay, Virginia	Safety	Jan. 31, 1992.
Hampton Rds 92-05-06	Chesapeake Bay, Virginia	Security	Feb. 26, 1992.
Hampton Rds 92-05-08	Port Norfolk Reach	Safety	Mar. 10, 1992.
Honolulu 92-01	Lahaina, Maui, Hawaii	Safety	Jan. 12, 1992.
Honolulu 92-02	Honolulu, Oahu, Hawaii	Safety	Feb. 15, 1992.
Houston 91-02	Houston Ship Channel	Safety	Nov. 27, 1991.
Huntington 92-01	Big Sandy River	Safety	Jan. 21, 1992.
Jacksonville 91-129	St. Johns River	Safety	Dec. 31, 1991.
Jacksonville 91-131	St. Johns River	Safety	Dec. 28, 1991.
Jacksonville 91-132	St. Johns River	Safety	Dec. 28, 1991.
Jacksonville 92-005	St. Johns River	Safety	Jan. 6, 1992.
Jacksonville 91-013	Florida, Sanford Lake Monroe	Safety	Feb. 9, 1992.
LA/LB 91-24	USNS Regulus	Security	Jan. 4, 1992.
LA/LB 92-01	M/V Kubbar	Safety	Jan. 29, 1992.
LA/LB 92-02	F/V Seaboy	Safety	Jan. 30, 1992.
LA/LB 92-03	M/V Flickertail State	Safety	Mar. 6, 1992.
Miami 92-001	Pompano Beach, FL	Safety	Jan. 2, 1992.
Miami 92-002	Miami, Florida	Safety	Feb. 14, 1992.
Miami 92-004	Pompano Beach, FL	Safety	Jan. 3, 1992.
Miami 92-006	Pompano Beach, FL	Safety	Jan, 1992.
Mobile 91-13	Gulf of Mexico	Safety	Sep. 15, 1991.
Mobile 91-14	Gulf of Mexico	Safety	Sep. 19, 1991.
Mobile 91-15	St. Marks River	Safety	Sep. 15, 1991.
Mobile 91-16	Mobile River	Safety	Sep. 19, 1991.
Mobile 91-17	Pensacola Bay	Safety	Nov. 8, 1991.
Mobile 91-18	Mississippi Sound, Ms	Safety	Oct. 23, 1991.
Mobile 91-19	Choctawhatchee Bay	Safety	Nov. 16, 1991.
Morgan City 91-01	Berwick Bay Louisana	Safety	Sep. 1, 1991.
New Orleans 91-08	Menhaden Canal	Safety	Aug. 14, 1991.
New Orleans 91-09	Lower Mississippi River	Safety	Sep. 12, 1991.
New Orleans 91-10	Lower Mississippi River	Safety	Sep. 14, 1991.
New Orleans 91-11	Lower Mississippi River	Safety	Sep. 28, 1991.
New Orleans 91-12	Lower Mississippi River	Safety	Oct. 5, 1991.
New Orleans 91-13	Lower Mississippi River	Security	Sep. 30, 1991.
New Orleans 91-14	Lower Mississippi River	Safety	Nov. 1, 1991.
New Orleans 91-15	Lower Mississippi River	Safety	Nov. 30, 1991.
New Orleans 91-16	Lower Mississippi River	Safety	Nov. 16, 1991.
New Orleans 91-17	Lower Mississippi River	Safety	Dec. 14, 1991.
New Orleans 91-18	Lower Mississippi River	Safety	Dec. 14, 1991.
Paducah 91-01	Ohio River	Safety	Jan. 7, 1991.
Paducah 91-19	Lower Mississippi River	Safety	Oct. 18, 1991.
Paducah 91-19A	Lower Mississippi River	Safety	Oct. 26, 1991.
Paducah 91-20	Upper Mississippi River	Safety	Nov. 19, 1991.
Paducah 91-20A	Upper Mississippi River	Safety	Nov. 26, 1991.
Paducah 92-01	Tennessee River	Safety	Jan. 8, 1992.
Paducah 92-02	Upper Mississippi River	Safety	Jan. 27, 1992.
Paducah 92-04	Upper Mississippi River	Safety	Feb. 15, 1992.
Philadelphia 92-11	Delaware Bay	Safety	Mar. 22, 1992.
Port Arthur 91-01	Taylor Bayou Turning	Safety	Nov. 8, 1991.
Savannah 91-133	Savannah River	Safety	Dec. 28, 1991.
Savannah 92-004	Savannah River	Safety	Jan. 4, 1992.
Savannah 92-011	Savannah River	Safety	Mar. 21, 1992.
Savannah 92-017	Savannah River	Safety	Mar. 15, 1992.
Southeast 92-01	Dixon Entrance	Safety	Mar. 14, 1992.
St. Louis 91-11	Upper Mississippi River	Safety	Sep. 2, 1991.
St. Louis 91-14	Illinois River	Safety	Oct. 12, 1991.
St. Louis 91-17	Upper Mississippi River	Safety	Dec. 31, 1991.

Dated: April 28, 1992.

D.M. Wrye,

Lieutenant Commander, USCG, Acting Executive Secretary, Marine Safety Council.

[FR Doc. 92-10338 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-4129-3]

North Dakota: Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: North Dakota has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. EPA has reviewed the North Dakota application and has made a decision, subject to public review and comment, that the North Dakota hazardous waste program revision satisfies all of the requirements necessary to qualify for final

authorization. Thus, EPA intends to approve the North Dakota hazardous waste program revisions. The revisions will authorize North Dakota to implement the corrective action provisions of RCRA, as amended, in lieu of EPA. North Dakota's application for program revision is available for public review and comment.

DATES: Final authorization for North Dakota shall be effective July 6, 1992, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on the North Dakota program revision application must be received by the close of business June 3, 1992.

ADDRESSES: Copies of the North Dakota program revision application are available from 8 a.m. to 4:30 p.m. Monday through Friday at the following addresses for inspection and copying: North Dakota State Library, Liberty Memorial Building, Capitol Grounds, Bismarck, North Dakota 58501, Phone: 701/224–4622; EPA Region VIII Library, Denver Place, room 215, 999 18th Street, Denver, Colorado 80202–2405, Phone: 303/293–1444, Barbara Wagner. Written comments should be sent to Charles Brinkman, Waste Management Branch, U.S. Environmental Protection Agency, Denver Place, suite 500, (8HWM–WM), 999 18th Street, Denver, Colorado 80202–2405, Phone: 303/293–1489.

FOR FURTHER INFORMATION CONTACT: Charles Brinkman, Waste Management Branch, U.S. Environmental Protection Agency, Denver Place, suite 500, (8HWM–WM), 999 18th Street, Denver, Colorado 80202–2405, Phone: 303/293–1489.

SUPPLEMENTARY INFORMATION:

A. Background

The States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, State programs must provide for adequate enforcement of compliance.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

The 1984 amendments to RCRA included an amendment to the "equivalent" requirement of section 3006(b)(1) that allowed greater flexibility in approving State programs. The legislative history for this provision suggests that Congress was satisfied to leave deadlines for program revisions to the Agency's discretion. Thus, the Agency has flexibility to authorize portions of a State program in lieu of the Federal program, leaving for another day the authorization of the remaining portions. In addition, in the legislative history for the 1984 amendments, Congress made clear that EPA could phase-in requirements for section 3006(f) in the same manner that changes to the Federal regulatory program, made after a State received its initial application, are phased-in by authorized States.

Thus, while this revision application is being authorized without a section 3006(f) component in place in the State program, the public availability of information is still being addressed as follows.

Until North Dakota is authorized to administer section 3006(f) of the Hazardous and Solid Waste Amendments, which specifies requirements for public availability of information under authorized State hazardous waste programs, the public may contact EPA Region VIII under the Freedom of Information Act (FOIA) for assistance in acquiring hazardous waste information from North Dakota if the State does not provide the information. The public is cautioned that the State and EPA may not be able to disclose certain information that is exempted or confidential under EPA public information regulations (40 CFR part 2).

B. North Dakota

North Dakota initially received final authorization on October 19, 1984. On August 30, 1989, North Dakota submitted a program revision application for additional program approvals.

EPA reviewed this North Dakota application, and made an immediate final decision that the North Dakota hazardous waste program revision satisfied all requirements necessary to qualify for final authorization with three exceptions. Consequently, EPA gave notice of its intent to grant final authorization for the additional modifications to the North Dakota hazardous waste program with the following exceptions: authorization of the North Dakota request for its Used Oil, Availability of Information and Corrective Action programs. The public submitted no significant written comments on EPA's immediate final decision and the decision became final on August 24, 1990.

In its August 30, 1989, application, North Dakota requested authorization of the State hazardous waste program to implement corrective action as provided for in the Hazardous and Solid Waste Amendments (HSWA) of 1984. In postponing approval of the North Dakota application for corrective action, EPA judged the State's capability to implement these provisions as requiring more development.

On July 1, 1991, North Dakota applied for revision of its authorized program for the inclusion of all substantial changes made to the Federal program through June 30, 1990. North Dakota has agreed to apply by February 28, 1993 for further revision of the State program to include changes to the Federal program up through June 30, 1991, including public availability of information under section 3006(f).

EPA has now considered additional information on the State's readiness to implement corrective action. As a result of substantial progress demonstrated by the State during the previous year, EPA now concludes that North Dakota has the capability to implement the corrective action program in a manner that provides for adequate enforcement of its provisions.

Based upon this conclusion, EPA has made an immediate final decision that the North Dakota hazardous waste program revision satisfies all requirements for final authorization of the corrective action program. Consequently, EPA intends to grant final authorization for the North Dakota corrective action program. The public may submit written comments on EPA's immediate final decision up until June 3, 1992. Copies of the North Dakota application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of the North Dakota program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

That part of the North Dakota hazardous waste program which is receiving immediate final publication today is consistent with the Federal program established under RCRA. There are no provisions which are more stringent or broader in scope than the Federal program.

North Dakota has not requested hazardous waste program authority on

Indian lands. The Environmental Protection Agency retains all hazardous waste authority under RCRA which applies to Indian lands in North Dakota.

Hazardous waste permits which have been issued by EPA under the authority in RCRA or HSWA will be reviewed by North Dakota and reissued under North Dakota authority and regulation. All EPA permits are to be reissued within 6 months from the effective date of the authorization revision which is being noticed as an immediate final rule today.

North Dakota is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3). Specific provisions which are included in the North Dakota program authorization revision sought are listed in table 1 below.

Table 1—Provisions Covered by This Program Authorization Revision

HSWA or FR reference	State equivalent *
1. Codification Rule, 50 FR 28702, 7/15/85, (Corrective Action).	33-24-05-47, 33-24-05-58, and 33-24-06-18.

* All citations are for the North Dakota Administrative Code.

C. Decision

I conclude that North Dakota's application for program revision meets all of the statutory and established regulatory requirements by RCRA. Accordingly, North Dakota is granted final authorization to operate its hazardous waste program as specified in table 1. North Dakota now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying other aspects of the RCRA program, subject to the limitation of its revised program application and previously approved authorities, and the limitations of HSWA. North Dakota also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of North Dakota's program, thereby eliminating duplicate requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous Waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 22, 1992.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 92-10336 Filed 5-1-92; 8:45 a.m.]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BPO-088-F]

RIN: 0938-AE45

Medicare Program; Offset of Medicare Payments to Individuals to Collect Past-Due Obligations Arising From Breach of Scholarship and Loan Contracts

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule sets forth the procedures to be followed for collection of past-due amounts owed by individuals who breached contracts under certain scholarship and loan programs. The programs that would be affected are the National Health Service Corps Scholarship, the Physician Shortage Area Scholarship, and the Health Education Assistance Loan. These procedures would apply to those individuals who breached contracts under the scholarship and loan programs and who—

- Accept Medicare assignment for services;
- Are employed by or affiliated with a provider, Health Maintenance Organization, or Competitive Medical Plan that receives Medicare payment for services; or
- Are members of a group practice that receives Medicare payment for services.

This regulation implements section 1892 of the Social Security Act, as added by section 4052 of the Omnibus Budget Reconciliation Act of 1987.

EFFECTIVE DATE: These regulations are effective June 3, 1992.

FOR FURTHER INFORMATION CONTACT: Marvin Dunkleberger, (301) 966-7519.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legislative Summary

Section 4052 of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), added a new section 1892 to the Social Security Act (the Act), that authorizes the Secretary of Health and Human Services to enter into a repayment agreement with any individual who fails to repay his or her obligation to the National Health Service Corps Scholarship (NHSCS), Physician Shortage Area Scholarship (PSAS), and the Health Education Assistance Loan (HEAL) programs. Under the terms of the agreement, the individual agrees to accept assignment for all Medicare services and have deductions made to repay the obligation according to a formula agreed to by the Secretary. The term "assignment" is used when an individual agrees to accept Medicare's determination of the reasonable charge amount as payment in full for covered services. The term "provider" includes all entities eligible to receive Medicare payment in accordance with an agreement under section 1866 of the Act.

Additionally, section 1892 (a)(2)(C) and (a)(3) of the Act provides that if the individual refuses to enter into an agreement or breaches any provisions of the agreement, or if Medicare payment is insufficient to maintain the offset collection according to the agreed upon formula, the Secretary will immediately inform the Attorney General, who will pursue collection. The Secretary is required to exclude the individual from the Medicare program until the entire past due obligation has been repaid, unless the individual is a sole community practitioner or the sole source of essential specialized services in a community and the State requests that the individual not be excluded.

Section 1892(d) of the Act states that if the individual who enters into a repayment agreement is employed by or affiliated with a provider, Health Maintenance Organization (HMO),

Competitive Medical Plan (CMP), or is a member of a group practice that submits bills under Medicare as a group rather than by individual physician, the Secretary will deduct amounts from Medicare payments to the provider, HMO, CMP or group practice beginning six months after it is given notification. The repayment agreement will be made in accordance with a formula and schedule agreed to by the Secretary, the individual and, in the case of an individual who is an employee of, or affiliated by a medical service agreement with such entities, the provider, organization, plan or group. The statute specifies that the provider having an agreement under section 1866 of the Act, or a CMP or HMO having a contract under section 1833 or 1876 of the Act, respectively, has a right to collect the deducted amount, including accumulated interest, from the individual. In a separate provision, the statute also gives the same right to group practices.

Section 1892(e) of the Act also specifies that Medicare payment amounts that would otherwise be made to the individual, provider or other entity will be transferred from the trust fund to the general fund in the Treasury to be credited as payment of the individuals' past-due obligations.

B. Provisions of the Proposed Rule

We published a proposed rule in the **Federal Register** on November 6, 1990 (55 FR 46685). That rule proposed to implement section 1892 of the Social Security Act, as added by section 4052 of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203). In the proposed rule, we set forth proposed procedures concerning the collection of past due amounts owed by individuals who breached contracts under the NHSCS, PSAS, and HEAL programs, and who receive Medicare payments for services or are employed by or affiliated with a provider that receives Medicare payment for services.

The proposed rule pertained only to the provisions HCFA would implement. We noted that the Public Health Service (PHS) will implement the establishment of the repayment agreements and will forward to the Medicare intermediaries and carriers, through HCFA, the signed agreements that provide for the particulars of the offset of past due obligations arising from the breach of scholarship and loan contracts against Medicare payments.

In the proposed rule, we proposed to amend 42 CFR part 405, subpart C to include the policies and procedures for repayment of scholarships and loans by adding a new § 405.380. In § 405.380(a), we specified the basis and purpose of the section (that is, to implement section 1892 of the Act regarding deductions from Medicare payments for services to offset amounts considered as past-due obligations under the NHSCS, PSAS, and HEAL programs).

In § 405.380(b), we specified that if an individual has signed a repayment agreement with PHS and either accepts Medicare assignment for services or is employed by or affiliated with a provider that has an agreement or contract with Medicare, the intermediary or carrier would deduct amounts according to the formula and schedule specified in the repayment agreement with PHS, the individual who breached the scholarship or loan obligation, and, if applicable, the provider.

In § 410.380(c)(1), we specified that Medicare carriers would begin to offset payments to the individuals 40 days after the date the repayment agreement is signed by PHS and the individual. In § 405.380(c)(2), we specified that Medicare intermediaries would begin to offset payments to the providers six months after the intermediaries notify the providers of the amount to be deducted and the particular individuals to whom the deductions are attributable. Offset of payments would be made in accordance with the terms of the repayment agreement. If the individual ceases to be employed by the provider, HMO, or CMP, or leaves the group practice, no deduction would be made. We noted that although it was not specified in the text of the proposed rule, the statute states that the provider has a right to collect the deducted amount, including accumulated interest, from the individual in accordance with the agreement.

In § 405.380(d), we specified that if the individual refuses to enter a repayment agreement, or breaches any provision of the agreement, or if Medicare payment is insufficient to maintain the offset collection according to the agreed upon formula, the Secretary, within 30 days if feasible, informs the Attorney General. The statute states that the Secretary will immediately inform the Attorney General, who will pursue collection. For purposes of this regulation, we proposed that the statutory term "immediately" means as soon as possible, that is, generally within 30 days if feasible.

We also specified that, in the same circumstances, the Secretary would exclude the individual from Medicare until the past-due obligation has been repaid, unless the individual is a sole community practitioner, the sole source of essential specialized services in a community and the State requests that the individual not be excluded. If the State believes that an individual should not be excluded from the Medicare program, the State should forward a written justification. Exclusions are made in accordance with the procedures used by the Office of the Inspector General under section 1128 of the Act (42 U.S.C. 1320a–7).

Finally, in § 405.380(e), we specified that Medicare payment amounts that would otherwise be made to the individuals or providers would be transferred from the trust funds to the general fund in the Treasury to be credited as payment of the individuals' past-due obligations.

II. Discussion of Public Comments on the Proposed Rule

We received 2 pieces of timely correspondence concerning the proposed rule.

1. Comment: One commenter questioned whether it was the carrier's role to apply the offset of Medicare payments after being notified that a repayment agreement has been negotiated with the borrower by the Secretary.

Response: As stated in the proposed rule (55 FR 46688), it is the carrier's role to apply the offset of Medicare payments after notification that a repayment agreement has been negotiated with the borrower by the Secretary.

2. Comment: One commenter suggested that as an alternative to repayment of a loan or scholarship, the borrower should be required to perform some type of community service.

Response: Section 1892 of the Act requires us to seek repayment of a loan or scholarship, but does not give us the authority to require borrowers to perform community service.

III. Provisions of the Final Rule

Based on our analysis of the comments, we are adopting the provisions as set forth in the November 6, 1990, proposed rule. Those provisions of the final rule that differ from the proposed rule follow:

• In § 405.380(c)(1) of the proposed rule, we proposed that the Medicare carrier offsets Medicare payments 40 days after a repayment agreement is signed by PHS and the individual. We have amended the regulations text in § 405.380(c)(1) to state that the Medicare carrier offsets Medicare payments 6 months after it notifies the individual or the group practice of the amount to be deducted and the particular individual to whom the deductions are attributable. This change is being made in

accordance with section 1892(d)(6) of the Act, which requires this specific delay for offset of payments for members of group practices. Although the statute mandates this delay only in the case of members of a group practice, HCFA has decided, in the interest of uniformity, ease of administration and equal treatment, to also apply this 6-month delay to individuals.

• An apparent conflict exists between section 1892 of the Act and section 732 of the Public Health Service Act concerning whether the money collected from HEAL recipients as a result of Medicare offset is to be deposited into the general fund in the Treasury, as stated in the proposed rule and in section 1892(e), or returned to the student loan insurance fund, as provided by section 732 of the Public Health Service Act. We believe that including a particular method of fund disposition in this final rule would be inappropriate while this statutory conflict exists. Therefore, we have deleted proposed § 405.380(e). However, until such time as section 1892(e) is amended, we intend to conform to that section, rather than to section 732, with respect to the disposition of funds collected under section 1892.

• In the proposed rule we listed an incorrect address for States to send written justifications for an individual that the State believes should not be excluded from the Medicare program. The correct address is listed below: Office of Inspector General, Office of Investigation, room 1–D–13, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

• An annual effect on the economy of $100 million or more;

• A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

• Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final regulation sets forth the procedures concerning the collection of past due amounts owed by individuals who breached contracts under NHSCS, HEAL, or PSAS programs and who receive Medicare payments for services or are employed by or affiliated with a provider that receives Medicare payment for services.

The Public Health Service estimates that the total amount owed to the Federal government as a result of breached contracts under the NHSCS was approximately $161 million and under the HEAL program approximately $229 million and under the PSAS program approximately $2.3 million, as of May 1, 1991. (Most of the individuals who were awarded scholarships under the PSAS program have repaid their obligations, and we expect to receive very few cases under this program.) We are unable to determine how much of the past due estimated $393 million will be recouped annually because we do not know the number of repayment agreements that will be negotiated and because the terms of each can vary. The issuance of this final rule may encourage those individuals who have breached contracts under any one of these scholarship or loan programs to repay the financial obligation by some other means. Some individuals may continue to refuse to repay their obligation and thus will potentially be excluded from Medicare and be subject to further action by the Attorney General's Office.

This final rule will not meet the $100 million criterion, nor do we believe that it will meet the other Executive Order 12291 criteria. Therefore, this final rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, physicians, providers, HMOs, CMPs, and group practices are considered to be small entities. We also consider nurses who work on a consulting basis or who are self-employed to be small entities.

The provisions of this regulation will affect those individuals who have past due obligations under the NHSCS, HEAL or PSAS programs. As of June 30, 1990, there were approximately 1,011 individuals who had a past due obligation under the NHSCS; 6,220 individuals who had a past due obligation under the HEAL program; and 66 individuals who had a past due obligation under the PSAS program.

The NHSCS program provides service-conditional financial awards for students of allopathic and osteopathic medicine, dentistry, and other health professions. The average loan for the 1989–1990 school year was $24,551.54 and this figure changes annually. The HEAL program is a program of Federal insurance and provides educational loans in the school of medicine, dentistry, veterinary medicine, optometry, and podiatry. Loans for these academic fields of study are limited to a total of $80,000 for all years of education. The academic fields of pharmacy, public health and allied health are limited to a total of $50,000 for all years. No one has been awarded a loan under the PSAS program since 1977. Since the average amount owed by a physician under these programs is approximately $25,000 to $80,000 not including any accrued interest on the principle amount, the financial burden to these individuals may be large; however, the repayment agreement will stipulate how much is to be offset from each Medicare payment until the full obligation is repaid. The financial impact is, therefore, expected to be much less significant on a monthly or annual basis.

These provisions will also affect Medicare providers, HMOs, CMPs, or group practices that employ or have a medical services agreement with an individual who has breached a contract under the NHSCS, HEAL, or PSAS program. If that individual has agreed to have their Medicare payments reduced, this will affect their employer's Medicare earnings. The employer can offset the individual's salary, as stipulated in the repayment agreement, in order to recover the amount that is offset by Medicare. This could require additional payroll recordkeeping effort on the part of the employer. If the organization does not recoup these monies from the individual, however, they will not realize their full earnings. The employer is also affected if an individual is excluded from Medicare because of his/her refusal to enter into a repayment agreement. We are unable to determine the number of providers, HMOs, CMPs, or group practices that will be affected by this final rule. However, the individual's financial responsibility does not shift from the individual to his or her employer.

Since the number of individuals who will be affected by this final rule is relatively small and because the employer is afforded the right to collect the amounts offset plus interest from the individual, we believe this final rule will not have a significant impact on a

substantial number of providers, HMOs, CMPs, or group practices.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Since this final rule will potentially affect certain individuals and providers, HMOs, CMPs, or members of group practices, this final rule will also affect rural hospitals since they are considered providers. We are not preparing a rural impact statement since we have determined and the Secretary certifies, that this final rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

IV. Information Collection Requirement

The final rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) because the instructions that govern the actual information collection requirements, and the agreements themselves, are the responsibility of the PHS. The focus of this proposed HCFA rule is the internal mechanics of offset.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Cost-based reimbursement, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health Care, Health Facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reasonable charges, Reporting requirements, Rural areas, Prospective payment system, X-rays.

42 CFR part 405, subpart C is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for part 405, subpart C is revised to read as follows:

Authority: Secs. 1102, 1815, 1833, 1842, 1866, 1870, 1871, 1879, and 1892 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1395u, 1395cc, 1395gg, 1395hh, 1395pp, and 1395ccc) and 31 U.S.C. 3711.

Subpart C—Suspension of Payment, Recovery of Overpayments, and Repayment of Scholarships and Loans

2. The title of subpart C is revised to read as set forth above.

3. A new undesignated center heading and a new § 405.380 are added to read as follows:

Repayment of Scholarships and Loans

§ 405.380 Collection of past-due amounts on scholarship and loan programs.

(a) *Basis and purpose.* This section implements section 1892 of the Act, which authorizes the Secretary to deduct from Medicare payments for services amounts considered as past-due obligations under the National Health Service Corps Scholarship program, the Physician Shortage Area Scholarship program, and the Health Education Assistance Loan program.

(b) *Offsetting against Medicare payment.* (1) Medicare carriers and intermediaries offset against Medicare payments in accordance with the signed repayment agreement between the Public Health Service and individuals who have breached their scholarship or loan obligations and who—

(i) Accept Medicare assignment for services;

(ii) Are employed by or affiliated with a provider, HMO, or Competitive Medical Plan (CMP) that receives Medicare payment for services; or

(iii) Are members of a group practice that receives Medicare payment for services.

(2) For purposes of this section, "provider" includes all entities eligible to receive Medicare payment in accordance with an agreement under section 1866 of the Act.

(c) *Beginning of offset.* (1) The Medicare carrier offsets Medicare payments beginning six months after it notifies the individual or the group practice of the amount to be deducted and the particular individual to whom the deductions are attributable.

(2) The Medicare intermediary offsets payments beginning six months after it notifies the provider, HMO, CMP or group practice of the amount to be deducted and the particular individuals to whom the deductions are attributable. Offset of payments is made in accordance with the terms of the repayment agreement. If the individual ceases to be employed by the provider, HMO, or CMP, or leaves the group practice, no deduction is made.

(d) *Refusal to offset against Medicare payment.* If the individual refuses to enter into a repayment agreement, or breaches any provision of the agreement, or if Medicare payment is insufficient to maintain the offset collection according to the agreed upon formula, then—

(1) The Department, within 30 days if feasible, informs the Attorney General; and

(2) The Department excludes the individual from Medicare until the entire past due obligation has been repaid, unless the individual is a sole community practitioner or the sole source of essential specialized services in a community and the State requests that the individual not be excluded.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 12, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: December 4, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-10276 Filed 5-1-92; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6926

[CO-930-4214-10; COC-1269]

Partial Modification of Oil Shale Withdrawals; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies two oil shale withdrawals insofar as they affect 560 acres of public lands to allow for disposal by exchange. This modification will have no effect on the existing withdrawals other than to allow for disposal of the surface. The lands continue to be open to oil and gas leasing, subject to the restrictions imposed by the oil shale withdrawals.

EFFECTIVE DATE: May 4, 1992.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Executive Order No. 5327 and Public Land Order No. 4522, which withdrew oil shale deposits and the lands containing such deposits for the protection of oil shale values, are hereby modified to allow for disposal of the surface estate by exchange. The lands affected by this modification are described as follows:

Sixth Principal Meridian

T. 4 S., R. 94 W.,
Sec. 26, SW¼NW¼, S½SW¼, and SW¼SE¼;
Sec. 34, E½NE¼ and NE¼SE¼;
Sec. 35, NE¼NW¼, W½W½, and NE¼SE¼;
Sec. 36, NW¼SW¼.

The areas described aggregate 560 acres in Garfield County.

2. At 9 a.m. on May 4, 1992, the lands shall be open to disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The lands remain closed to all forms of entry except exchange. The lands remain open to mineral leasing subject to the restrictions imposed by the original orders.

Dated: April 21, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92-10267 Filed 5-1-92; 8:45 am]

BILLING CODE 4310-JB-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN. Docket No. 91-1; FCC 92-157]

Closed-Caption Decoder Requirements for Television Receivers

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission hereby amends its rules and clarifies its policies applying to closed-caption decoders in television receivers. These actions are taken in response to a Petition for Reconsideration filed by the Consumer Electronics Group of the Electronic Industries Association. The changes that are being adopted are intended to clarify the Commission's requirements applying to closed-caption decoders and to address industry concerns.

EFFECTIVE DATE: June 3, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Engelman, Chief, Technical Standards Branch, Office of Engineering and Technology, (202) 653-6288.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in General Docket No. 91-1, FCC 92-157, adopted on March 23, 1992, and released on April 9, 1992. The full text of the decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the FCC's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street NW., Washington, DC 20037.

Summary of the Memorandum, Opinion and Order

1. On April 12, 1991, the Commission implemented the provisions of the Television Decoder Circuitry Act of 1990 (Decoder Act), Public Law 101-431, and adopted closed-caption decoding requirements for television receivers. See Report and Order, GEN Docket No. 91-1, 56 FR 27200 (1991). These requirements include, among other things, marketing prohibitions against the manufacture, assembly, importation, or shipment in interstate commerce of noncompliant television receivers after July 1, 1993. Also included is the requirement that closed-caption decoder circuitry in television receivers function properly when receiving signals from any cable television security system that was designed and marketed prior to April 5, 1991.

2. In a Petition for Reconsideration, filed on July 15, 1991, the Consumer Electronics Group of the Electronic Industries Association (EIA/CEG) asked that the Commission reconsider both the marketing prohibitions and the cable compatibility requirement, and make several minor changes to the technical requirements.

3. *Marketing prohibitions:* EIA/CEG is concerned that the prohibition against the shipment of noncompliant television receivers on or after July 1, 1993, would unreasonably restrict the marketing of television receivers manufactured before that date and not required to contain closed-caption decoder circuitry. EIA/CEG asked that the Commission amend its rules to indicate that the marketing prohibitions place no restriction on the shipping or sale of television receivers manufactured before July 1, 1993. The Commissions agreed and is amending 47 CFR § 15.119(a) as requested.

4. *Compatibility with cable television security systems:* EIA/CEG and several other commenting parties request that the Commission's cable compatibility requirement be eliminated or, alternatively, that television manufacturers be given additional time to comply. Based on the record in the original rule making proceeding, the comments filed on reconsideration, and the legislative history of the Decoder Act, the Commission concluded that the cable compatibility requirement should be retained with slight clarifications. The clarifications are discussed in detail in the full text of the Memorandum Opinion and Order, and 47 CFR § 15.119(1) is being amended appropriately. The Commission determined that, with these clarifications, television manufacturers should have the certainty to complete their closed-caption decoder circuitry designs and meet the July 1, 1993 deadline.

5. *Minor technical changes:* EIA/CEG and several commenters suggested a number of minor, noncontroversial changes to the Commission's technical requirements. The Commission agreed to these changes and is amending § 15.119 accordingly.

6. *Ordering clauses:* Pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and sections 3 and 4 of the Television Decoder Circuitry Act of 1990, Public Law 101-431, *it is ordered that* the Petition for Reconsideration filed by the Consumer Electronics Group of the Electronic Industries Associations is granted to the extent indicated in the Memorandum Opinion and Order and in all other respects is denied. *It is further ordered that* Title 47 of the Code of Federal Regulations, part 15, is amended as set forth below, effective 30 days after publication in the **Federal Register**.

List of Subjects in 47 CFR Part 15

Television, Communications equipment, Deaf, Bilingual education, Motion pictures.

Part 15 of title 47 of the CFR is amended to read as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: Sections 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, 304, and 307.

2. Section 15.119 is amended by adding a note to the end of paragraph (a); by revising the first sentence in paragraph (d); by revising paragraphs

(e)(1)(i) and (e)(1)(ii); by revising the introductory text of paragraph (f); by removing paragraph (f)(1)(iii) and redesignating paragraphs (f)(1)(iv) through (f)(1)(xi) as (f)(1)(iii) through (f)(1)(x); by revising paragraphs (f)(1)(iii), (f)(1)(x), (f)(2)(i), (f)(2)(ii), (f)(2)(iii); by removing paragraph (f)(3)(i) and redesignating paragraphs (f)(3)(ii) through (f)(3)(v) as (f)(3)(i) through (f)(3)(iv); by revising paragraphs (f)(3)(iii) and (h)(1) introductory text; by revising the first sentence in paragraph (i)(4); by revising the mnemonic of the first entry in the Miscellaneous Control Codes table following paragraph (i)(5); by revising the 32nd entry in Row 1 of the Preamble Address Code table following paragraph (i)(5); and by revising paragraphs (l) and (n)(6) to read as follows:

§ 15.119 Closed-caption Decoder Requirements for Television Receivers.

(a) * * *

Note: This paragraph places no restriction on the shipping or sale of television receivers that were manufactured before July 1, 1993.

* * * * *

(d) *Screen Format.* The display area for captioning and text shall fall approximately within the safe caption area as defined in paragraph (n)(12) of this section. * * *

* * * * *

(e) * * *

(1) * * *

(i) The first type of addressing code is the Preamble Address Code (PAC). It assigns a row number and one of eight "indent" figures. Each successive indent moves the cursor four columns to the right (starting from the left margin). Thus, an indent of 0 places the cursor at Column 1, an indent of 4 sets it at Column 5, etc. The PAC indent is non-destructive to displayable characters. It will not affect the display to the left of the new cursor position on the indicated row. Note that Preamble Address Codes also set initial attributes for the displayable characters which follow. See paragraph (h) of this section and the Preamble Address Code table.

(ii) The second type of addressing code is the Tab Offset, which is one of three Miscellaneous Control Codes. Tab Offset will move the cursor one, two, or three columns to the right. The character cells skipped over will be unaffected; displayable characters in these cells, if any, will remain intact while empty cells will remain empty, in the same manner that a PAC indent is non-destructive.

(f) *Caption Mode.* There are three styles of presenting text in Caption Mode: roll-up, pop-on, and paint-on. Character display varies significantly with the style used, but certain rules of character erasure are common to all styles. A character can be erased by addressing another character to the same screen location or by backspacing over the character from a subsequent location on the same row. The entire displayed memory will be erased instantly by receipt of an Erase Displayed Memory command. Both displayed memory and non-displayed memory will be entirely erased simultaneously by either: The user switching receiver channels or data channels (C1/C2) or fields (F1/F2) in decoders so equipped; the loss of valid data (see paragraph (j) of this section); or selecting non-captioning receiver functions which use the display memory of the decoder. Receipt of an End of Caption command will cause a displayed caption to become non-displayed (and vice versa) without being erased from memory. Changing the receiver to a non-captioning mode which does not require use of the decoder's display memory will leave that memory intact, and the decoder will continue to process data as if the caption display were selected.

(1) * * *

(iii) Each time a Carriage Return is received, the text in the top row of the window is erased from memory and from the display or scrolled off the top of the window. The remaining rows of text are each rolled up into the next highest row in the window, leaving the base row blank and ready to accept new text. This roll-up must appear smooth to the user, and must take no more than 0.433 second to complete. The cursor is automatically placed at Column 1 (pending receipt of a Preamble Address Code).

* * * * *

(x) A roll-up caption remains displayed until one of the standard caption erasure techniques is applied. Receipt of a Resume Caption Loading command (for pop-on style) or a Resume Direct Captioning command (for paint-on style) will not affect a roll-up display. Receipt of a Roll-Up Caption command will cause any pop-on or paint-on caption to be erased from displayed memory and non-displayed memory.

(2) * * *

(i) Preamble Address Codes can be used to move the cursor around the screen in random order to place captions on Rows 1 to 15. Carriage Returns have no effect on cursor location during caption loading.

(ii) The cursor moves automatically one column to the right after each character or Mid-Row Code received. Receipt of a Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.) Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Backspace, an End of Caption, or a Preamble Address Code, will replace any previous character at that location.

(iii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on a row after the Delete to End of Row is acted upon, the solid space (if any) for that element should also be erased.

* * * * *

(3) * * *

(iii) If the reception of data is interrupted during the direct captioning by data for the alternate caption channel or for Text Mode, the display of caption text will resume at the same cursor position if a Resume Direct Captioning command is received and no Preamble Address Code is given which would move the cursor.

* * * * *

(h) *Character Attributes*—(1) *Transmission of Attributes.* A character may be transmitted with any or all of four attributes: Color, italics, underline, and flash. All of these attributes are set by control codes included in the received data. An attribute will remain in effect until changed by another control code or until the end of the row is reached. Each row begins with a control code which sets the color and underline attributes. (White non-underlined is the default display attribute if no Preamble Address Code is received before the first character on an empty row.) Attributes are not affected by transparent spaces within a row.

* * * * *

(i) * * *

(4) If the first transmission of a control code pair passes parity, it is acted upon within one video frame. * * *

* * * * *

MISCELLANEOUS CONTROL CODES

Data channel 1	Data channel 2	Mnemonic	Command description
14 20	1C 20	RCL	Resume caption loading
. .	. .	.	.

PREAMBLE ADDRESS CODES

Row 1

Ident 24 ..... Underline ..... 5D ..... * * *

* * * * *

(l) *Compatibility with Cable Security Systems.* Certain cable television security techniques, such as signal encryption and copy protection, can alter the television signal so that some methods of finding line 21 will not work. In particular, counting of lines or timing from the start of the vertical blanking interval may cause problems. Caption decoding circuitry must function properly when receiving signals from cable security systems that were designed and marketed prior to April 5, 1991. Further information concerning such systems is available from the National Cable Television Association, Inc., Washington, DC, and from the Electronic Industries Association, Washington, DC.

* * * * *

(n) * * *

(6) *Displayable character*—Any letter, number or symbol which is defined for on-screen display, plus the 20h space.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-10259 Filed 5-1-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-22; RM-7194, RM-7359]

Radio Broadcasting Services; Obion and Tiptonville, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WENK of Union City, Inc. (RM-7359), allots Channel 267C3 to Tiptonville, Tennessee. Channel 267C3 can be allotted to Tiptonville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 267C3 at Tiptonville are 36-22-42 and 89-28-30. The proposal filed by Billy Gene Presson (RM-7194), see 55 FR 04207, February 7, 1990, requesting the allotment of Channel 267C3 to Obion, Tennessee, is denied. With this action, this proceeding is terminated.

DATES: Effective Date: June 15, 1992.

The window period for filing applications will open on June 16, 1992, and close on July 16, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-22, adopted April 13, 1992, and released April 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Channel 267C3, Tiptonville.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-10358 Filed 5-1-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 656

[Docket No. 920120-2020]

Atlantic Striped Bass Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this final rule implementing a technical amendment to change the reference to the Public Law authorizing regulations on fishing for Atlantic striped bass from Public Law 100-589 to Public Law 102-130. This updates the regulations at 50 CFR part 656 to reflect the recent reauthorization of the Atlantic Striped Bass Conservation Act (Act).

EFFECTIVE DATE: May 4, 1992.

FOR FURTHER INFORMATION CONTACT: David G. Deuel or Austin R. Magill, NMFS, Recreational and Interjurisdictional Fisheries Division, 1335 East-West Highway, Silver Spring, MD 20910, telephone 301-713-2347.

SUPPLEMENTARY INFORMATION: The Act, Public Law 100-589, reproduced at 16 U.S.C. 1851 note, required the Secretary of Commerce to implement regulations governing fishing for Atlantic striped bass in the exclusive economic zone (EEZ) 3-200 nautical miles offshore from Maine through Florida. Regulations were developed and implemented (55 FR 40181; October 2, 1990), and were effective November 1, 1990. Public Law 100-589 expired September 30, 1991. The Act was reauthorized on October 17, 1991 as Public Law 102-130. The regulations, which appear at 50 CFR part 656, remain in effect as provided for in section 4 of the reauthorized Act. This final rule, technical amendment, amends only the definition of "Act" to reflect the Public Law number, as reauthorized.

Classification

Under 5 U.S.C. 553(b)(B), notice and public comment on this final rule, technical amendment, are unnecessary because the final rule merely changes the reference to the Public Law authorizing regulations governing fishing for Atlantic striped bass in the EEZ. Because no change in fishing practices is required as a result of this final rule, delaying its effectiveness for 30 days is also unnecessary.

Because this rule is being issued without prior comment, it is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis and none has been prepared.

This rule makes a minor technical change to a rule that has been determined not to be a major rule under Executive Order 12291, does not contain policies with federalism implications requiring assessment under Executive Order 12612, and does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act. There is no change in the regulatory impacts previously reviewed and analyzed.

List of Subjects in 50 CFR Part 656

Fisheries, Fishing.

Dated: April 27, 1992.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR is amended as follows:

PART 658 [AMENDED]

1. The authority citation for part 658 continues to read as follows:

Authority: 16 U.S.C. 1851 note.

2. In § 656.2, the definition of "Act" is revised to read as follows:

§ 656.2 Definitions.

* * * * *

Act means the Atlantic Striped Bass Conservation Act Appropriations Authorization, Public Law 102–130.

* * * * *

[FR Doc. 92–10284 Filed 5–1–92; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 86
Monday, May 4, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket No. 91-32]

Passenger Vessel Financial Responsibility Requirements for Indemnification of Passengers for Nonperformance of Transportation—Advance Proposed Rulemaking and Inquiry

[Docket No. 92-19]

Revision of Financial Responsibility Requirements for Non-performance of Transporation

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission discontinues Docket No. 91-32, notice of inquiry and advance notice of proposed rulemaking, and proposes to amend 46 CFR part 540, subpart A, which sets forth procedures for establishing passenger vessel financial responsibility for nonperformance of transportation. The proposed rule would:

(1) Institute a sliding-scale formula for operators meeting certain requirements;

(2) Provide that operators need meet only existing net worth standards to qualify as self-insurers;

(3) Require semi-annual rather than annual filing of certain financial statements by self-insurers;

(4) Provide for certain treatment for "whole-ship" arrangements; and

(5) Publish a suggested form escrow arrangement as a guideline for the industry.

DATES: Comments on or before June 18, 1992.

ADDRESSES: Send comments (original and fifteen copies of comments) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION:

Background

The Federal Maritime Commission ("Commission" or "FMC") adminsters, *inter alia*, section of Public Law 89-777, 46 U.S.C. app. 817e ("Section 3"). Section 3 requires certain passenger vessel operators to have sufficient financial responsibility to indemnify passengers for nonperformance of transportation.[1] Operators demonstrating adequate financial responsibility to the Commission are issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transporation ("Performance Certificate").

The FMC's regulations implementing section 3 are at 46 CFR 540, subpart A. In general terms these regulations require certain passenger vessel operators to demonstrate their financial responsibility to indemnify passengers for nonperformance of transportation. Financial responsbility may be evidenced by filing with the Commission a guaranty, escrow arrangement, surety bond, insurance or self-insurance in an amount established by the Commission. This amount, based upon the operator's unearned passenger revenue ("UPR"),[2] must be equal to 110 percent of the operator's highest UPR over a 2-year period. The maximum coverage amount currently required is $15 million.

In early 1990, the Commission realized that higher fares, the increased popularity of passenger cruises and an increase in the size of individual operator vessel fleets had resulted in some operators accumulating UPR substantially exceeding the $10 million ceiling for section 3 coverage then in effect.[3] The Commission therefore issued a proposed rulemaking in Docket No. 90-1 [4] to remove the ceiling, thereby requiring dollar-for-dollar coverage for all UPR. This proposal elicited substantial industry opposition. Docket No. 90-1's Final Rule [5] did not remove the ceiling. Instead, it increased the ceiling from $10 million to $15 million. Current with the issuance of the rule the Commission instituted Fact Finding Investigation No. 19 ("FF-19") [6] to determine whether its passenger vessel regulations required further revision.

In his Report to the Commission ("Report") in FF-19, Commissioner Francis J. Ivancie, the Inquiry Officer, recommended that the $15 million ceiling be retained. He also recommended liberalizing the self-insurance rules; a sliding scale of coverage keyed to UPR levels; greater emphasis on operator experience in setting coverage levels; and a reivew of the Commission's regulations to explore alternative methods of providing coverage and exempting "whole-ship" contracts. In August 1991, following its review of Commissioner Ivancie's Report, the Commission instituted Docket No. 91-32, Passenger Vessel Financial Responsibility Requirements for Indemnification of Passengers for Nonperformance of Transporation—Advance Notice of Proposed Rulemaking and Notice of Inquiry ("Inquiry").[7]

The Inquiry

The Inquiry solicited comment on the *Report*'s recommendations [8] and the

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[1] Section 3 provides, in pertinent part:

No person in the United States shall arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for fifty or more passengers and which is to embark passengers at United States ports without there first having been filed with the Federal Maritime Commission such information as the Commission may deem necessary to establish the financial responsibility of the person arranging, offering, advertising, or providing such transportation, or, in lieu thereof, a copy of a bond or other security, in such form as the Commission, by rule or regulation, may require and accept, for indemnification of passengers for nonperformance of the transportation.

[2] UPR is defined under 46 CFR 540.2(i) as:

* * * that passenger revenue received for water transportation and all other accommodations, services, and facilities relating thereto not yet performed.

[3] The last previous increase in the ceiling, from $5 million to $10 million, occurred in 1981.

[4] Security for the Protection of the Public, Maximum Required Performance Amount, 55 FR 1850 (January 19, 1990).

[5] 55 FR 34564 (August 23, 1990).

[6] Passenger Vessel Financial Responsibility Requirements, Order of Investigation, 55 FR 34670 (August 23, 1990).

[7] 56 FR 40586 (August 15, 1991).

[8] Comment was not sought on the Inquiry Officer's recommendation that the Commission consider informing Congress of the FMC's (a) lack of authority to extend protection to the land and air portions of cruises; and (b) lack of jurisdiction over foreign-to-foreign cruises marketed in the United States. The Inquiry stated that this recommendation need not be included in an advance notice of proposed rulemaking because the Commission can evaluate the issues within the Agency.

meaning of section 3(b) of Public Law 89–777.[9] Comments were filed by the Surety Association of America ("SAA"),[10] Diamond Cruise Ltd., Oy. ("Diamond"),[11] Mitsui O.S.K. Passenger Line ("Mitsui"),[12] the International Council of Cruise Lines ("ICCL")[13] and American Hawaii Cruises ("AHC").[14]

The comments generally focus on the burdens passenger vessel operators believe they face due to the Commission's existing regulations, and the previous proposal in Docket No. 90–01 to eliminate the financial responsibility coverage ceiling. The comments also addressed the Commission's self-insurance requirements, the use of a sliding scale to determine Section 3 coverage requirements and the Commission's treatment of "whole-ship" charters by corporate/institutional sponsors.

Discussion

After considering the issues presented in FF–19 and the comments submitted in response to the Inquiry, the Commission proposes to:

(1) Retain the current $15 million ceiling;

(2) Consider a factor-based sliding scale in determining individual operators' coverage levels;

(3) Modify its Section 3 self-insurance rules to eliminate the requirement that operators maintain both working capital and net worth to qualify as self-insurers;[15]

(4) Require semi-annual rather than annual filing of certain financial statements by self-insurers;

(5) Consider special provisions in its rules for "whole-ship contracts"; and

(6) Adopt a draft form escrow arrangement for the guidance of industry interests requiring greater flexibility to accommodate fluctuating levels of UPR.

1. The Ceiling

A further revision in the ceiling appears to be unwarranted at this time.

Although neither SAA nor ICCL urges that the current ceiling be reduced, AHC suggests that the previous $10 million ceiling be restored. It also advocates a sliding-scale proposal which would reduce coverage requirements for operators having UPR in the $5 million to $35 million range. AHC is concerned that the $15 million ceiling may have a disproportionate impact on mid-sized operators such as itself.

The current $15 million ceiling does not, in all instances, provide passengers dollar-for-dollar coverage. As a general matter, however, this ceiling appears to strike a reasonable balance between Public Law 89–777's objective of protecting passengers and the requirements this legislation imposes on the cruise line industry. Section 3 arose in response to the stranding of passengers by vessel operators unable or unwilling to perform the transportation that had been paid for. The regulatory scheme that has been in place for the last 25 years has been instrumental in preventing financial loss to passengers, and does not appear to have resulted in undue burdens to the industry as a whole.[16] Therefore, the Commission is retaining the present $15 million ceiling. However, to the extent the ceiling may impose a burden on certain operators with UPR at or near the ceiling that could be disproportionate to their potential risks of failure, the Commission is considering the sliding scale discussed below.

2. A Sliding Scale

Although the Commission is continuing the current $15 million ceiling, AHC's suggestion for a sliding scale within the $15 million ceiling appears to have merit, subject to certain safeguards. This rulemaking proposes that the Commission apply a sliding scale to UPR amounts between $5 million and $35 million to determine the appropriate financial responsibility required for a passenger vessel operator. Operators could qualify to use the sliding scale if they demonstrated a minimum of five years' uninterrupted passenger vessel service in the U.S. trades[17] with a satisfactory record of performance, or explanation of any claims for instances of non performance. The Commission will evaluate these explanations on an *ad hoc* basis. Any operator unable to meet these criteria would become subject to the current requirement to maintain a bond, escrow, insurance, guaranty, or self-insurance (or a combination thereof) equal to 110 percent of its highest UPR within the last two fiscal years, up to the $15 million ceiling.

It is requested that comments address the standards and structure of the sliding-scale formula proposed herein. In particular, it is requested that the comments address the issues of (1) the adequacy of the maximum $5 million coverage per vessel; (2) whether other factors/breakpoints/criteria should be used; and (3) any other factors bearing upon the Commission's possible adoption of such an approach.

3. Self-Insurance

The Commission has decided against proposing that self-insurance assets be permitted to be maintained outside the United States. However, the Commission proposes to eliminate the requirement that both net worth and working capital be maintained by operators wishing to qualify as self-insurers.

The underlying purposes of Public Law 89–777 could be defeated if operator assets sufficient to indemnify passengers are not readily available in the United States. A judgment against an operator who has failed to perform becomes meaningless if the assets in the United States are insufficient to satisfy the judgment. Passengers may not have the ability or resources to pursue foreign-domiciled assets. Such efforts would probably not be cost-effective in the majority of instances. This view is supported in some measure by comments received in this proceeding. For instance, ICCL suggested that it would be inappropriate to consider an operator's vessels as assets in the United States since these vessels are outside of United States waters most of

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[9] Section 3(b) of Public Law 89–777 states, *inter alia*: "If a bond is filed with the Commission, such bond * * * shall be in an amount paid equal to the estimated total revenue for the particular transportation." By letter dated February 28, 1992, the Commission advised Congress, in the event that it was believed that a Congressional clarification of the matter is warranted, that the FMC interprets section 3(b) as affording the Commission the discretion to establish a maximum coverage level.

[10] SAA states that it is a trade association supported by more than 650 surety companies which collectively write about 95% of the surety bonds written in the United States. SAA's comments are on behalf of those of its members which write the passenger vessel surety bonds required by 46 CFR Part 540.

[11] Diamond is a Finnish corporation, which intends to specialize in selling all available accommodations on a scheduled cruise to a single corporate customer pursuant to a "whole-ship" contract.

[12] Mitsui's interest focuses on the "whole-ship" issues in the proceeding.

[13] ICCL is the successor organization to the International Committee of Passenger Lines, and is a non-profit trade association. It states that its members are foreign corporations which fly only foreign flags and have about 90% of the deep-sea lower berth cruise capacity in the world, representing over 71,000 lower berths and about 26 million passenger cruise days annually.

[14] AHC states that it is the only U.S.-flag cruise line operating large deep-water cruise vessels. It operates in the Hawaiian inter-island trades with the 800-passenger berth vessels SS CONSTITUTION and SS INDEPENDENCE.

[15] The Commission also has determined to continue the requirement that self-insurers maintain the required assets in the United States.

[16] During the nearly 25 years since the enactment of Public Law 89–777, there have been about eight failures requiring claims to be paid by the underwriters of Section 3 performance coverage. The level of coverage was sufficient to fully protect passengers in each instance.

[17] Breaks in operation due to seasonal schedules would not constitute a break in service.

the time. SAA, a major surety association, also opposes removing the U.S.-based asset requirement.

However, the Commission proposes to allow an operator to qualify as a self-insurer based upon its net worth alone. Presently, operators must maintain both working capital and net worth equal to their UPR to qualify as section 3 self-insurers. It would appear to be inappropriate to allow an operator to qualify as a self-insurer based strictly upon working capital. Working capital is extremely liquid and provides, standing alone, little if any protection for passengers. Indeed, the commenters advised that operators need their working capital for their day-to-day operational expenses.

In proposing this liberalization of the Commission's self-insurance rules, the Commission intends to require more frequent reports concerning the self-insurer's financial standing. Presently, under 46 CFR 540.5(d) (4), (5) and (6), the Commission requires the annual filing of certain financial statements.[18] The proposed rule requires semi-annual rather than annual filing of: Current statements of the book value or current market value of any assets physically located within the United States together with a certification as to the existence and amount of any encumbrances thereon; and current credit rating reports by Dun and Bradstreet or any similar concern found acceptable to the Commission. The proposed rule also requires a semi-annual filing of the list of all contractual requirements or other encumbrances relating to the maintenance of net worth.

4. Whole-Ship Contracts

Diamond and Mitsui assert that the consumer protection afforded by the FMC's regulations is unneeded in the context of corporate/institutional "whole-ship" charters. They argue that section 3 was designed to protect individuals and not corporate/institutional purchasers of a whole-ship cruise, because the ultimate user of the transportation (the individual passenger) is not at risk with respect to nonperformance. In essence, their view is that the corporate/institutional sponsor arranging the contract with the operator is nearly equal in bargaining power and possess more resources in arranging and achieving redress than does an individual passenger in cases of nonperformance.

The Commission finds merit in this position and is proposing to exempt whole-ship revenues from section 3 UPR coverage. An exemption procedure is being proposed for those operators who wish to exclude whole-ship arrangements from their UPR calculations. This procedure would require the corporate party to the arrangement to (1) join the operator in seeking the exemption; and (2) acknowledge in writing that its rights to recovery for nonperformance under the provisions of Public Law 89–777 may have been affected thereby.[19]

The Commission recognizes that Public Law 89–777 could be interpreted as not clearly providing for whole-ship exemptions or the consequent abrogation of the rights, if any, of either the corporate entities or the individual passengers. The Commission specifically seeks comment on these issues.

5. Escrow Arrangements

The Inquiry noted the Report's finding that a relatively high percentage of passenger vessel certificants use guaranties, and that several other Section 3 coverage options are little-used. Industry participants in FF–19 asked the Commission to consider modifying the current options to provide flexibility in meeting coverage requirements. The Inquiry noted that although such modifications could lessen the financial burden on the industry, they could potentially reduce the amount of financial responsibility coverage available to passengers.[20] It further noted, however, that the record suggests that the industry has not yet fully explored the flexibility already afforded in the current regulations to use a combination of coverage methods. Instead, the industry has traditionally focussed on a single coverage method, e.g., a guaranty or surety bond, for the full amount of coverage.[21] Thus, the Inquiry noted that a high degree of flexibility already exists for passenger vessel operators to customize their coverage.[22]

AHC's comments express concern that the Commission's regulations may not provide sufficient allowance to accommodate fluctuations in an operator's UPR level due to vessel lay-up, seasonal fluctuations, and other factors. AHC's concern might be accommodated by escrow accounts which are permitted under FMC regulations at 46 CFR 540.5(b) and which provide a methodology for operators to obtain relief where UPR levels may fluctuate substantially from season to season. The escrow agreements that the Commission has approved to date typically provide for the escrow amount to fluctuate with the operator's current UPR level.[23]

The Commission has approved escrow arrangements that require the operators to escrow funds equaling their weekly UPR levels. UPR levels are recalculated on a weekly basis and are reported to the escrow agent and the Commission. The agreements require the operators to deposit additional funds in the account if their weekly UPR levels increase. On the other hand, the operators receive payment if their weekly UPR levels have decreased.[24] Such escrow accounts protect unearned funds, while minimizing the financial burden imposed on cruise line operators who experience significant UPR fluctuations.

Under a guaranty, the underwriter's exposure is based on the operator's maximum UPR, although actual offseason UPR might be far less. In addition, the operator might be required to deposit countersecurity at the maximum amount with the underwriter. With an escrow account, revenues not needed to support UPR during the offseason could be released to the

[18] Section 540.5(d) (1) and (2) require self-insurers to file quarterly balance sheets and income and surplus statements. Section 540.5(d)(3) requires an annual report of these two documents.

[19] Depending upon the comments received and its further analysis of the issues involved in whole-ship charters, if the Commission determines to exempt them from the passenger vessel operator's Section 3 UPR calculation, additional conditions could be imposed upon the corporate/institutional sponsor with regard to its assuming the operator's Section 3 responsibility to indemnify passengers/guests in the event of nonperformance.

[20] 56 FR 40588 (August 15, 1991).

[21] In this connection, the Inquiry pointed out that the regulations allow one or a combination of the following five coverage methods: Insurance, escrow account, guaranty, self-insurance, or surety bond, and that the required format for the guaranty and surety bond may be amended for good cause; that while working capital and net worth are considered in determining qualification as a self-insurer, the working capital requirement may be waived for good cause; and that escrow account are unique documents customized to fit particular circumstances.

[22] Here, the Inquiry observed that a certificant seeking to lower costs associated with a $7 million surety bond could reduce its surety coverage to $5 million and qualify as a self-insurer for the remaining $2 million, noting that the potential savings from reduced bond coverage could compensate for the increased reporting requirements for self-insurance.

[23] The escrow agreements previously approved by the Commission have not been subject to the $15 million ceiling. The draft from escrow agreement proposed herein reflects this approach. Given the flow-through nature of the previously approved escrow agreements, the Commission believes that a ceiling would be inappropriate.

[24] The escrow agreements which the Commission has previously approved require the operators to place a certain amount in the escrow account as a "cushion" to protect those funds that may not have been included in the weekly summary, such as those amounts held by travel agents and not yet reported.

operator. Therefore, it would appear that an escrow account could address the concerns expressed by AHC in its proposal for an average UPR standard.[25]

The rule proposed herein includes a draft "form" of an escrow arrangement of a nature the Commission has previously found acceptable for section 3 purposes. The Commission evaluates escrow accounts on a case-by case basis. However, this form provides a guideline that should clarify the characteristics of the instrument the Commission generally considers acceptable.[26] Also, the Commission wishes to point out that escrow accounts can be used in combination with other evidence of financial responsibility.[27] This would appear to provide a wide scope of arrangements which can be precisely tailored to meet a particular operator's section 3 requirements. However, a review of the Commission's records indicates that few passenger vessel operators utilize escrow accounts as a method of establishing financial responsibility. The Commission therefore seeks comment on the feasibility of using escrow accounts to satisfy the requirements of section 3.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of this order and has determined that this rule is not a "major rule" because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this Proposed Rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental organizations.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980, as amended. The additional public reporting burden for this collection of information is estimated to average 60.91 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission, Washington, DC 20573 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, Washington, DC 20503.

It is ordered, That Docket No. 91–32, Passenger Vessel Financial Responsibility Requirements for Indemnification of Passengers for Nonperformance of Transportation—Advance Notice of Proposed Rulemaking and Notice of Inquiry, is hereby discontinued.

List of Subjects in 46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and record keeping requirements, Surety bonds, Transportation.

Therefore, pursuant to 5 U.S.C. 553; section 3 Pub. L. 89–777, 80 Stat. 1356–1358 (46 U.S.C. app. 817e); section 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a); and section 17 of the Shipping Act of 1984 (46 U.S.C. app. 1716), the Federal Maritime Commission proposes to amend Part 540 of Title 46 of the Code of Federal Regulations as follows:

PART 540—[AMENDED]

1. The authority citation for part 540 continues to read:

Authority: 5 U.S.C. 552, 553; secs. 2 and 3, Pub. L. 89–777, 80 Stat. 1356–1358 (46 U.S.C. app. 817e, 817d); sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a); sec. 17 of the Shipping Act of 1984 (46 U.S.C. app. 1716).

2. A new § 540.2(l) is added to read as follows:

§ 540.2. Definitions.

* * * * *

(l) *Whole-ship charter* means an arrangement between a passenger vessel operator and a corporate or institutional entity: (i) which is filed with the Commission for review pursuant to § 540.5(f) of this part;

(ii) Which provides for use of the full reach of the passenger accommodation of a vessel for an entire voyage or voyages; and

(iii) Whereby the involved corporate or institutional entity provides such accommodations to the ultimate passengers free of charge.

3. Section 540.5 is amended by revising its introductory text, paragraph (b), the introductory text of paragraph (d), and paragraphs (d)(4), (5) and (6), and by adding new paragraphs (e) and (f) reading as follows:

§ 540.5 Insurance, guaranties, escrow accounts, and self-insurance.

Except as provided in § 540.9(j), the amount of coverage required under this section and § 540.6(b) shall be in an amount determined by the Commission to be no less than 110 percent of the unearned passenger revenue of the applicant on the date within the 2 fiscal years immediately prior to the filing of the application which reflects the greatest amount of unearned passenger revenue, unless the applicant qualifies for consideration under § 540.5.(e). The Commission, for good cause shown, may consider a time period other than the previous 2-fiscal-year requirement in this section or other methods acceptable to the Commission to determine the amount of coverage required. Evidence of adequate financial responsibility for the purposes of this subpart may be established by one or a combination (including § 540.6 *Surety Bonds*) of the following methods:

* * * * *

(b) Filing with the Commission evidence of an escrow account, acceptable to the Commission, for indemnification of passengers in the event of nonperformance of water transportation. Parties filing escrow agreements for Commission approval who wish to facilitate such approval may execute such agreements in the form set forth in appendix A of subpart A of this part.

* * * * *

(d) Filing with the Commission for qualification as a self-insurer such evidence acceptable to the Commission as will demonstrate continued and

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[25] There appears to be increasing industry interest in escrow accounts. Nevertheless, based on the comments received in the Inquiry, some cruise operator may not favor escrow accounts because they use funds placed in these accounts as working capital to support current and future sailings. Given the flow-through nature of an escrow agreement, this should no' be a significant impediment. In any event, the Commission would have some concerns about an operator who does not have sufficient funds to maintain an escrow account and the funds necessary to support current and future sailings, at least on a short term basis.

[26] The form published in the Appendix contains broad language. Interested parties may upon request obtain a redacted version of agreements previously approved by the Commission.

[27] The introductory paragraph of 46 CFR 540.5 provides that evidence of adequate financial responsibility may be established by one or a combination of the methods set forth in §§ 540. 5 and 540.6

stable passenger operations over an extended period of time in the foreign or domestic trade of the United States. In addition, applicant must demonstrate financial responsibility by maintenance of net worth in an amount calculated as in the introductory text of this section. The Commission will take into consideration all current contractual requirements with respect to the maintenance of such net worth to which the applicant is bound. Evidence must be submitted that the net worth required above is physically located in the United States. This evidence of financial responsibility shall be supported by and subject to the following which are to be submitted on a continuing basis for each year or portion thereof while the Certificate (Performance) is in effect:

* * * * *

(4) Semi-annual current statement of the book value or current market value of any assets physically located within the United States together with a certification as to the existence and amount of any encumbrances thereon;

(5) Semi-annual current credit rating report by Dun and Bradstreet or any similar concern found acceptable to the Commission;

(6) A list filed semi-annually of all contractual requirements or other encumbrances (and to whom the applicant is bound in this regard) relating to the maintenance of net worth;

* * * * *

(e) In the event that an operator can provide evidence (in the form of an affidavit by the operator's Chief Executive Officer or other responsible corporate officer) of a minimum of five years of operation in United States trades with a satisfactory record of performance or satisfactory explanation of any claims for instances of nonperformance, the following schedule may be applied to determine the minimum coverage required for indemnification of passengers in the event of nonperformance of water transportation:

Unearned passenger revenue ("UPR")	Required coverage
$0–$5,000,000	100% of UPR up to $5,000,000.
$5,000,001 to $15,000,000.	$5,000,000 plus 50% of excess UPR over $5,000,000 subject to an overall maximum of $5,000,000 per vessel.
$15,000,001 to $35,000,000.	$10,000,000 plus 25% of excess of UPR over $15,000,000 subject to an overall maximum of $5,000,000 per vessel and a $15,000,000 overall maximum.
Over $35,000,000	$15,000,000 overall maximum.

(f) Revenues derived from whole-ship charters, as defined in § 540.2(l), may be exempted from consideration as unearned passenger revenues, on condition that, in the case of a new operator or within 30 days of the execution of the whole-ship charter if the operator has a Performance Certificate for the vessel in question:

(1) A certified true copy of the contract or charter is furnished with the application;

(2) The chartering party attests that it will redistribute the vessel's passenger accommodations without charge; and

(3) A document executed by the chartering party's Chief Executive Officer or other responsible corporate officer is submitted by which the chartering party specifically acknowledges that its rights to indemnification under section 3 of Public Law 89–777 may be affected by the reduction in section 3, Public Law 89–777, financial responsibility coverage attributable to the exclusion of such funds from the operator's UPR.

4. An Appendix A is added to part 540, subpart A, reading as follows:

Appendix A to Subpart A—Example of Escrow Agreement for use under 46 CFR 540.5(b)

Escrow Agreement

1. Legal name(s), state(s) of incorporation, description of business(es), trade name(s) if any, and domicile(s) of each party.

2. Whereas, [name of the passenger vessel operator] ("Operator") and/or [name of the issuer of the passenger ticket] ("Ticket Issuer") wish(es) to establish an escrow account to provide for the indemnification of certain of its passengers utilizing [name vessel(s)] in the event of nonperformance of transportation to which such passengers would be entitled, and to establish the Operator's and/or Ticket Issuer's financial responsibility therefor; and

3. Whereas, [name of escrow agent] ("the Escrow Agent") wishes to act as the escrow agent of the escrow account established hereunder.

4. The Operator and/or Ticket Issuer will determine, as of the day prior to the opening date, the total amounts of U.S. unearned passenger revenues ("UPR") which it had in its possession. Unearned passenger revenues are defined as [incorporate the elements of 46 CFR 540.2(l)].

5. The Operator and/or Ticket Issuer shall on the opening date deposit an amount equal to UPR as determined above, plus a cash amount equal to [amount equal to no less than 10% of the Operator's and/or Ticket Issuer's UPR on the date within the 2 fiscal years immediately prior to the filing of the escrow agreement which reflects the greatest amount of UPR, except that the Commission, for good cause shown, may consider a time period other than the previous 2-fiscal-year requirement or other methods acceptable to the Commission to determine the amount of coverage required] ("initial deposit").

6. The Operator and/or Ticket Issuer may at any time deposit additional funds into the account.

7. The Operator and/or Ticket Issuer shall, at the end of each business week, recompute UPR by first computing:

A. the amount by which UPR has decreased due to:

(1) Refunds due to cancellations;

(2) amount of cancellation fees assessed in connection with paragraph 7.A.(1) of this appendix; and

(3) the amount earned from completed cruises; and

B. the amount by which UPR has increased due to receipts from passengers for future water transportation and all other related accommodations and services not yet performed.

The difference between the amounts in paragraphs 7.A. and B. of this appendix is to be the amount by which UPR has increased or decreased ("new UPR"). If the new UPR plus the amount of the initial deposit exceeds the amount in the escrow account, the Operator and/or Ticket Issuer shall deposit the funds necessary to make the account balance equal to UPR plus the initial deposit. If the account balance exceeds new UPR plus the initial deposit, the balance shall be available to the Operator and/or Ticket Issuer. The information computed in paragraph 7 of this appendix shall be furnished to the Commission and the Escrow Agent in the form of a recomputation certificate signed and certified by a competent officer of the Operator and/or Ticket Issuer. Copies sent to the Commission are to be addressed to the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573.

8. A monthly report shall be prepared by the Escrow Agent and provided to the Operator and/or Ticket Issuer and the Commission within 15 days of the end of each month and shall list the investment assets of the account, their original cost, their current market value, and the beginning and ending balance of the account.

9. The Operator's and/or Ticket Issuer's independent auditors shall prepare quarterly reports, such reports to be furnished to the Escrow Agent and the Commission, and any shortfall is to be covered within one business day.

10. The Escrow Agent shall invest the funds of the account in qualified investments as directed by the Operator and/or Ticket Issuer. Some examples of qualified investments are, to the extent permitted by law:

A. Government obligations of the United States or its agencies;

B. Certificates of deposit, time deposits or acceptances of any bank, savings institution or trust company whose debt obligations are

in the two highest categories rated by Standard and Poor's or Moody's, or which is itself rated in the two highest categories by Keefe, Bryette and Woods;

C. Commercial paper similarly rated;

D. Certificates or time deposits issued by any bank, savings institution or trust company when fully insured by the FDIC or the FSLIC;

E. Money market funds utilizing securities of the same quality as above; and/or

F. Corporate bonds of the three highest categories, as rated by Standard and Poor's or Moody's.

11. Income derived from the investments shall be credited to the escrow account.

12. The purpose of the escrow agreement is to establish the financial responsibility of the Operator and/or Ticket Issuer pursuant to section 3 of Public Law 89–777, approved November 5, 1966, and the account is to be utilized to discharge the Operator's and/or Ticket Issuer's legal liability to indemnify passengers for nonperformance if transportation via the [name of vessel(s)]. The Escrow Agent is to make such payments on instructions from the Operator and/or Ticket Issuer, or, in the absence of such instructions, 21 days after final judgment against the Operator and/or Ticket Issuer in a U.S. Federal or State court having jurisdiction. The Operator and/or Ticket Issuer will pledge to each passenger holding a ticket for future passage on the Operator's/Ticket Issuer's vessel(s) an interest in the Escrow Account equal to the Fares amount shown on the face of such ticket. The Escrow Agent agrees to act as nominee for each passenger until transportation is performed or until passenger has been compensated.

13. Escrow Agent shall waive right to offset.

14. The Operator and/or Ticket Issuer will indemify and hold Escrow Agent harmless.

15. Statement of the parties' agreement concerning warranty of *bona fides* by the Operator and/or Ticket Issuer and Escrow Agent.

16. Statement of the parties' agreement concerning fees to be paid by the Operator and/or Ticket Issuer to Escrow Agent, reimbursable expenses to be paid by the Operator and/or Ticket Issuer to Escrow Agent. A statement that fees for subsequent terms of agreement are to be negotiated.

17. Statement of the parties' agreement concerning the term of agreement and renewal/termination procedures.

18. Statement of the parties' agreement concerning procedures for appointment of successor Escrow Agent.

19. Statement that disposition of funds on termination shall be to the Operator and/or Ticket Issuer, if evidence of the Commission's acceptance of alternative evidence of financial responsibility is furnished; otherwise, all passage fares held for uncompleted voyages are to be returned to the passengers. The Operator and/or Ticket Issuer shall pay all fees previously earned to the Escrow Agent.

20. The agreement may be enforced by the passengers, the Escrow Agent, the Operator and/or Ticket Issuer or by the Federal Maritime Commission.

21. All assets maintained under the escrow agreement shall be physically located in the United States and may not be transferred, sold, assigned, encumbered, etc., except as provided in the agreement.

22. The Commission has the right to examine the books and records of the Operator and/or Ticket Issuer and the Escrow Agent, as related to the escrow account, and the agreement may not be modified unless agreed in writing by the Operator and/or Ticket Issuer and Escrow Agent and approved in writing by the Commission.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–10280 Filed 5–1–92; 8:45 am]

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46 CFR Part 581

[Docket No. 92–21]

Amendments to Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its regulations in part 581 governing service contracts to allow the parties to a filed service contract to amend the contract's "essential terms." The intent of this proposal is to create a more flexible service contract system in order to benefit carriers, U.S. shippers and consumers. Similarly situated shippers who had previously accessed the contract would have the option of either continuing under the original contract or accessing the amended terms. The Commission also solicits comments on related issues that may result in further amendments to its service contract regulations.

DATES: Comments due June 18, 1992.

ADDRESSES: Comments (original and 15 copies) are to be submitted to:

Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5740.

Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION:

Background

Section 8(c) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1707(c), states the regulatory requirements for "service contracts" filed with the Federal Maritime Commission ("FMC" or "Commission"). A service contract is defined by section 3(21) of the 1984 Act as * * *

> * * * a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

Id. 1702(21). Section 8(c) requires that * * *

> * * * each [service] contract * * * shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—
>
> (1) The origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;
>
> (2) The commodity or commodities involved;
>
> (3) The minimum volume;
>
> (4) The line-haul rate;
>
> (5) The duration;
>
> (6) Service commitments; and
>
> (7) The liquidated damages for nonperformance, if any.

Id. 1707(c) (emphasis added).

The FMC's regulations provide that "[t]he essential terms originally set forth in a service contract may not be amended * * *." 46 CFR 581.7(a). The policy behind this restriction was originally stated by the Commission in November, 1984, when it published final rules implementing the new service contract provisions of the 1984 Act. The Commission explained that the proscription was adopted out of a concern for similarly situated shippers:

* * * For instance, if a shipper was unable to meet its cargo volume commitment under a contract and the parties agreed to lower that amount during the term of the contract, this could discriminate against another shipper who was not able to take advantage of the contract during its initial 30-day offering, because of the volume of cargo originally required to be committed but who could have done so under the lower minimum. Also, the contract parties could agree to alter the geographic areas or port ranges covered by the contract thereby including similarly situated shippers who were not included under the original contract. These situations could be exacerbated if the non-contract shipper had already shipped all or a substantial portion of its cargo prior to the time of the modifications and is, therefore, no longer able to take advantage of the altered terms.

Service Contracts; Loyalty Contracts; and Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States, ____ F.M.C. ____, 22 S.R.R. 1424, 1432 (1984).

The prohibition against contract amendments was carried forward in subsequent rule revisions promulgated in Service Contracts, ____ F.M.C. ____, 24 S.R.R. 277, 300 (1987). The Commission there pointed out that contract parties could, however, provide for potential modifications through contingency clauses published with the essential terms, which similarly situated shippers can also access. *Id.* at 295.[1]

More recently, the Commission adopted a procedure to provide relief to contract parties where the contract change being sought is to correct clerical or administrative errors in the contract's published essential terms. *Service Contracts*, ____ F.M.C. ____ 24 S.R.R. 1513 (1989). The request for permission to correct must be filed with the Commission within 45 days of the contract's original filing; the filing party must submit an affidavit attesting with specificity to the factual circumstances that gave rise to the clerical or administrative error; the other contract party must submit a statement concurring in the request for correction; and the access rights of similarly situated shippers are protected. 46 CFR 581.7(b). The commercial rigidity caused by the Commission's "no amendment" rule still exists, however, and still prevents consenting parties to a contract from agreeing to change the terms of their agreement. Existing procedures for correcting clerical or administrative errors do not permit substantive changes to contracts, even when all parties would like to do so.

[1] The current regulation permitting contingency clauses is published at 46 CFR 581.5(a)(3)(viii). The Commission has also prescribed a procedure whereby similarly situated shippers are informed of changes in a contract as a result of an activated contingency clause. *Id.* 581.6(b) (5).

Discussion

When the FMC surveyed shippers about the Shipping Act of 1984 during the preparation of its Section 18 Report to the Advisory Commission on Conferences and Ocean Shipping ("ACCOS"), permitting contracts to be amendable was identified as the number one administrative change shippers would like to see in the Commission's current service contract regulations. The inability of contract parties to amend service contracts under FMC rules was also raised as an issue by both shippers and conferences before ACCOS.

It is a basic principle of contract law that * * *

* * * the parties to any contract, if they continue interested and act upon a sufficient consideration while it remains executory, may by a new and later agreement rescind it in whole or in part, alter or modify it in any respect, add to or supplement it, or replace it by a substitute.

17A Am. Jur. 2d *Contracts* sec. 513 at 526 (1991). Under the present regulation at § 581.7(a), parties to service contracts do not have the same freedom to respond to unforeseen events or changing market conditions. This restriction is not literally required by the terms of the Shipping Act of 1984, but rather is imposed by FMC regulation.

Section 8(c) of the 1984 Act makes service contracts different from ordinary contracts by giving outside persons with certain qualifications a right protected by law to receive the same contract terms from the carrier as the original shipper. This is the reason the Commission felt the original "no amendment" rule was appropriate. However, while that rule is imposed on all service contracts, the Commission's staff informally estimates that only about two percent of filed contracts are subsequently "me-too'd" by other shippers. Thus, to the extent there is any benefit from the "no amendment" rule, the beneficiaries appear to constitute an extremely small group. Also, the original Commission concern that amending service contracts might leave shippers unable to take advantage of an amended contract did not take into account the possibility that some shippers who had been unable to "me too" an original contract might be able to "me too" the contract as amended. There is also a general concern that, in an increasingly competitive world marketplace with increasingly sophisticated transportation systems and logistics, there may be a greater need in 1992 to provide a flexible regulatory system that accommodates parties' agreed-upon needs than there was in 1984.

This proposed rule is drafted to accommodate the desire for greater flexibility under service contracts in ways that also seek to protect the statutory prerogatives of similarly situated shippers. Corresponding to a procedure already in place for corrections of administrative or clerical errors, 46 CFR 581.7(b)(2)(ii) shippers who have accessed a service contract would have the choice of continuing under their original "me too" contracts or electing to amend their contracts in the same way as the basic contract parties. As noted above, the Commission has expressed concern about shippers who were unable to meet the original essential terms of a service contract, but could have met the terms as modified. The proposed rule further provides in amended § 581.6(b) that the essential terms of an "amended service contract" as well as an "initial service contract" would be made available to all other shippers or shippers' associations similarly situated.

The proposed rule would not obviate the need for the present corrections procedure, which allows the retroactive application of essential terms corrected for clerical or administrative errors. The rule would permit only prospective application of substantively amended essential terms.

Permitting amendments to service contracts raises other issues upon which the Commission solicits comments. These include:

1. Should the ability to amend be limited to only certain essential terms (*e.g.*, volume, origin and destination points) but not others (*e.g.*, rates)?

2. Should the ability to amend a contract be limited in time, *e.g.*, only during the first half of the contract's period, or within 60 days of its filing with the Commission?

3. What term should the shipper accessing an amended contract receive: the full original contract term, or only the time remaining?

4. Could and should the Commission require that the filing of amendments to a service contract be accompanied by a statement of the reason for the amendments?

Commenters desiring a particular result in these or other related areas should include suggested rule language.

The proposed rule also makes technical changes to reflect the redesignation of the FMC's Bureau of Domestic Regulation as the Bureau of Tariffs, Certification and Licensing.

Although the Commission, as an independent regulatory agency, is not

subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of that Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, as amended. Public reporting burden for this amendment is estimated to average 13.64 hours per respondent, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission, Washington, DC 20573, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, Washington, DC 20573.

List of Subjects in 46 CFR Part 581

Administrative practice and procedure; Contracts; Maritime carriers; Rates and fares.

Therefore, pursuant to 5 U.S.C. 553 and sections 8 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1707 and 1716, part 581 of title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for part 581 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702, 1706, 1707, 1709, 1712, 1714–1716, 1718 and 1722.

2. Section 581.3 is amended by revising paragraphs (a) introductory text, (a)(1)(i), (a)(2)(iv)(B) and (a)(3)(i) to read as follows:

§ 581.3 Filing and maintenance of service contract materials.

(a) *Filing.* There shall be filed with the Director, Bureau of Tariffs, Certification and Licensing, the following:

(1) * * *

(i) The outer envelope shall be addressed to the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573.

* * * * *

(2) * * *

(iv)(A) * * *

(B) The envelope and the inside address on the transmittal letter are to be addressed to the "Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573."

(3) * * *

(i) The making available of contingent or amended essential terms to similarly situated shippers under § 581.6(b)(5) or § 581.6(b)(1);

* * * * *

3. Section 581.4 is amended by revising paragraphs (a)(1)(i), (b)(1)(iii) and the first sentence after the form in paragraph (b)(2)(iii)(A) to read as follows:

§ 581.4 Form and manner.

(a) * * *

(1) * * *

(i) A unique service contract number, and consecutively numbered amendment number, if any, bearing the prefix "SC";

* * * * *

(b) * * *

(1) * * *

(iii) Be identified by an essential-terms number and consecutively numbered amendment number, if any, bearing the prefix "ET No." which shall be located on the top of each page of the statement of essential terms; and

(iv) * * *

(2) * * *

(iii)(A) * * *

The Index shall include for every statement of essential terms, the ET number and consecutively numbered ET amendment number, if any, as provided in paragraph (b)(1)(iii) of this section, the effective duration, as provided in § 581.5(a)(3)(i), the page and section number(s) [where used], and a column for cancellation dates which shall be used as an alternative to cancelling each individual page of the Essential Terms Publication; and

* * * * *

4. Section 581.6 is amended by revising paragraphs (a) and (b) (1) and (2) to read as follows:

§ 581.6 Availability of essential terms.

(a) *Availability of statement.* A statement of the essential terms of each initial or amended service contract as set forth in tariff format shall be made available to the general public pursuant to the requirements of this section and §§ 581.3, 581.4(b) and 581.5.

(b) *Availability of terms.* (1) the essential terms of an initial or amended service contract shall be made available to all other shippers or shippers' associations similarly situated under the same terms and conditions for a specified period of no less than thirty (30) days from the date of filing of the initial or amended service contract as may be adjusted under § 581.8(d).

(2) Whenever a shipper or shippers' association desires to enter into an initial or amended service contract with the same essential terms, a request shall be submitted to the carrier or conference in writing.

* * * * *

5. Section 581.7 paragraph (a) is revised to read as follows:

§ 581.7 Modification, termination or breach not covered by the contract.

For purposes of this part:

(a) *Modifications.* (1) The essential terms originally set forth in a service contract may be amended by mutual agreement of the parties to the contract.

(2) Amended service contracts shall be filed with the Commission pursuant to § 581.3(a) of this part.

(3) Any shipper or shippers' association that has previously entered into a service contract which is amended pursuant to this paragraph may elect to continue under that contract or adopt the modified essential terms as an amendment to its contract.

* * * * *

6. Section 581.8 is amended by revising paragraphs (a)(1), (b) introductory text, (c)(1), (c)(2) introductory text and (d) to read as follows:

§ 581.8 Contract rejection and notice; implementation.

(a) *Initial filing and notice of intent to reject.* (1) Within 20 days after the initial filing of an initial or amended service contract and statement of essential terms, the Commission may notify the filing party of the Commission's intent to

reject a service contract and/or statement of essential terms that does not conform to the form, content and filing requirements of the Act or this part. The Commission will provide an explanation of the reasons for such intent to reject.

* * * * *

(b) *Rejection.* The Commission may reject an initial or amended contract and/or statement of essential terms if the objectionable contract or statement:

* * * * *

(c) *Implementation: prohibition and rerating.* (1) Performance under a service contract or amendment thereto may begin without prior Commission authorization on the day both the initial or amended contract and statement of essential terms are on file with the Commission, except as provided in paragraph (c)(2) of this section;

(2) When the filing parties receive notice that an initial or amended service contract, or statement of essential terms, has been rejected under paragraph (b) of this section:

* * * * *

(d) *Period of availability.* The minimum 30-day period of availability of essential terms required by § 581.6(b) shall be suspended on the date of the notice of intent to reject an initial or amended service contract and/or statement of essential terms under paragraph (a)(1) of this section and a new 30-day period shall commence upon the resubmission thereof under paragraph (a)(2) of this section.

7. Section 581.9 is revised to read as follows:

§ 581.9 Confidentiality.

All service contracts and amendments to service contracts filed with the Commission shall, to the full extent permitted by law, be held in confidence.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-10292 Filed 5-1-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-455, RM-5899, RM-6223, RM-6224, RM-6225, RM-6226, RM-7111]

Radio Broadcasting Services; Perry, Cross City, Holiday, Avon Park, Sarasota, Live Oak, FL, and Thomasville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document directs an Order To Show Cause against Sarasota FM, Inc., licensee of Station WSRZ, Sarasota, Florida, to show cause why its license should not be modified to specify operation on Channel 293A in lieu of Channel 292A. Such modification would permit a Channel 292C2 upgrade by Station WLVU, Holiday, Florida. The reference coordinates for the Channel 293A allotment at Sarasota, Florida, are 27-20-12 and 82-34-25. Highlands Media Company, Inc., licensee of Station WSRZ, Avon Park, Florida, has already agreed to the modification of its Channel 292A license to specify operation on Channel 256A. The reference coordinates for the Channel 256A allotment at Avon Park, Florida, are 27-33-37 and 81-29-36.

DATES: Comments must be filed on or before June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

This is a synopsis of the Commission's Order To Show Cause in MM docket No. 87-455, adopted April 13, 1992, and released April 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st St., NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 92-10359 Filed 5-1-92; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 57, No. 86
Monday, May 4, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-92-26]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: May 28, 1992.

Time: 1:30 p.m.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: To discuss market opening dates, selling schedules, the 1992 policies and procedures, and other related matters for the 1992 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 205-0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: April 28, 1992.

Kenneth C. Clayton,

Deputy Administrator for Marketing Programs.

[FR Doc. 92-10273 Filed 5-1-92; 8:45 am]

BILLING CODE 3410-02-M

[TB-92-27]

National Advisory Committee for Tobacco Inspection Service; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: National Advisory Committee for Tobacco Inspection Services.

Date: May 27, 1992.

Time: 1:30 p.m.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: To review various regulations issued pursuant to the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*), to hear persons who have asked to address the Committee, and to discuss the level of tobacco inspection and related services for the 1992 selling season.

The meeting is open to the public. Persons other than members who wish to address the Committee at the meeting should contact the Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 205-0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: April 28, 1992.

Kenneth C. Clayton,

Deputy Administrator for Marketing Programs.

[FR Doc. 92-10274 Filed 5-1-92; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Intermountain Region, Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, Forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 30, 1992. The list of newspapers will remain in effect until October 1992 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: K. Dale Torgerson, Regional Appeals and Litigation Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, phone (801) 625-5279.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures 36 CFR 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision. .

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho:
The Idaho Statesman, Boise, Idaho

For decisions made by the Regional Forester affecting National Forests in Nevada:
The Reno Gazette-Journal, Reno, Nevada

For decisions made by the Regional Forester affecting National Forests in Wyoming:
Casper Star-Tribune, Casper, Wyoming

For decisions made by the Regional Forester affecting Naitonal Forests in Utah:
Standard-Examiner, Ogden, Utah

If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in:
Standard-Examiner, Ogden, Utah

Ashley National Forest

Ashley Forest Supervisors decisions:

Vernal Express, Vernal, Utah
Vernal District Ranger decisions:
Vernal Express, Vernal, Utah
Flaming Gorge District Ranger for decisions affecting Wyoming:
Casper Star Tribune, Casper, Wyoming
Flaming Gorge District Ranger for decisions affecting Utah:
Vernal Express, Vernal, Utah
Roosevelt and Duchesne District Ranger decisions:
Uintah Basin Standard, Roosevelt, Utah

Boise National Forest

Boise Forest Supervisor decisions:
The Idaho Statesman, Boise, Idaho
Mountain Home District Ranger decisions:
Mountain Home News, Mountain Home, Idaho
Boise District Ranger decisions:
The Idaho Statesman, Boise, Idaho
Idaho City District Ranger decisions:
The Idaho City World, Idaho City, Idaho
Cascade District Ranger decisions:
The Advocate, Cascade, Idaho
Lowman District Ranger decisions:
The Idaho City World, Idaho City, Idaho
Emmett District Ranger decisions:
The Messenger-Index, Emmett, Idaho

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions:
Casper Star-Tribune, Casper, Wyoming
Jackson District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming
Buffalo District Ranger decisions:
Casper Star-Tribune, Jackson, Wyoming
Big Piney District Ranger decisions:
Casper Star-Tribune, Jackson, Wyoming
Pinedale District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming
Greys River District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming
Kemmerer District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming

Caribou National Forest

Caribou Forest Supervisor decisions:
Idaho State Journal, Pocatello, Idaho
Soda Springs District Ranger decisions:
Idaho State Journal, Pocatello, Idaho
Montpelier District Ranger decisions:
Idaho State Journal, Pocatello, Idaho
Malad District Ranger decisions:
Idaho State Journal, Pocatello, Idaho
Pocatello District Ranger decisions:
Idaho State Journal, Pocatello, Idaho

Challis National Forest

Challis Forest Supervisor decisions:
The Challis Messenger, Challis, Idaho
Middle Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho
Challis District Ranger decisions:
The Challis Messenger, Challis, Idaho
Yankee Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho
Lost River District Ranger decisions:
The Challis Messenger, Challis, Idaho

Dixie National Forest

Dixie Forest Supervisor decisions:
The Daily Spectrum, St. George, Utah
Pine Valley District Ranger decisions:
The Daily Spectrum, St. George, Utah
Cedar City District Ranger decisions:
The Daily Spectrum, St. George, Utah
Powell District Ranger decisions:
The Daily Spectrum, St. George, Utah
Escalante District Ranger decisions:
The Daily Spectrum, St. George, Utah
Teasdale District Ranger decisions:
The Daily Spectrum, St. George, Utah

Fishlake National Forest

Fishlake Forest Supervisor decisions:
Richfield Reaper, Richfield, Utah
Loa District Ranger decisions:
Richfield Reaper, Richfield, Utah
Richfield District Ranger decisions:
Richfield Reaper, Richfield, Utah
Beaver District Ranger decisions:
Beaver Press, Beaver, Utah
Fillmore District Ranger decisions:
Millard County Chronicle-Progress, Fillmore, Utah

Humboldt National Forest

Humboldt Foret Supervisor decisons:
Elko Daily Free Press, Elko, Nevada
Mountain City District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Jarbidge and Ruby Mountain District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Ely District District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Santa Rosa District Ranger decisions:
Humboldt Sun, Winnemucca, Nevada
Jarbidge District Ranger decisions:
Twin Falls Times News, Twin Falls, Idaho

Manti-Lasal National Forest

Manti-Lasal Forest Supervisor decisions:
Sun Advocate, Price, Utah
Sanpete District Ranger decisions:
Mt. Pleasant Pyramid, Mt. Pleasant, Utah
Ferron District Ranger decisions:
Emery County Progress, Castle Dale, Utah
Price District Ranger decisions:
Sun Advocate, Price, Utah
Moab District Ranger decisions:
The Times Independent, Moab, Utah
Monticello District Ranger decisions:
The San Juan Record, Monticello, Utah

Payette National Forest

Payette Forest Supervisor decisions:
Idaho Statesman, Boise, Idaho
Weiser District Ranger decisions:
Signal American, Weiser, Idaho
Council District Ranger decisions:
Council Record, Council, Idaho
New Meadows, McCall, and Krassel District Ranger decisions:
Star News, McCall, Idaho

Salmon National Forest

Salmon Forest Supervisor decisions:
The Recorder-Herald, Salmon, Idaho
Cobalt District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
North Fork District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Leadore District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Salmon District Ranger decisions:
The Recorder-Herald, Salmon, Idaho

Sawtooth National Forest

Sawtooth Forest Supervisor decisions:
The Times News, Twin Falls, Idaho
Burley District Ranger decisions:
South Idaho Press, Burley, Idaho
Twin Falls District Ranger decisions:
The Times News, Twin Falls, Idaho
Ketchum District Ranger decisions:
Wood River Journal, Hailey, Idaho
Sawtooth National Recreation Area:
Challis Messenger, Challis, Idaho
Fairfield District Ranger decisions:
The Times News-Twin Falls, Idaho

Targhee National Forest

Targhee Forest Supervisor decisions:
The Post Register, Idaho Falls, Idaho
Dubois District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Island Park District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Ashton District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Palisades District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Teton Basin District Ranger decisions:
The Post Register, Idaho Falls, Idaho

Toiyabe National Forest

Toiyabe Forest Supervisor decisions:
Reno Gazette-Journal, Reno, Nevada
Carson District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada
Austin District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada
Bridgeport District Ranger decisions:
The Review-Herald, Mammoth Lakes, California
Tonopah District Ranger decisions:
Tonopah Times Bonanza-Godfield

News, Tonopah, Nevada
Las Vegas District Ranger decisions:
Las Vegas Review Journal, Las Vegas, Nevada

Uinta National Forest

Uinta Forest Supervisor decisions:
The Daily Herald, Prova Utah
Pleasant Grove District Ranger decisions:
The Daily Herald, Prova Utah
Heber District Ranger decisions:
The Daily Herald, Prova Utah
Spanish Fork District Ranger decisions:
The Daily Herald, Prova Utah

Wasatch-Cache National Forest

Wasatch-Cache Forest Supervisor decisions:
Salt Lake Tribune, Salt Lake City, Utah
Salt Lake District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah
Kamas District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah
Evanston District Ranger decisions:
Uintah County Herald, Evanston, Wyoming
Mountain View District Ranger decisions:
Uintah County Herald, Evanston, Wyoming
Ogden District Ranger decisions:
Ogden Standard Examiner, Ogden Utah
Logan District Ranger decisions:
Logan Herald Journal, Logan, Utah.

Dated: April 22, 1992.

Robert C. Joslin,

Deputy Regional Forester.

[FR Doc. 92-10297 Filed 5-1-92; 8:45 am]

BILLING CODE 3410-11-M

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after May 5, 1992. The list of newspapers will remain in effect until October 1992, when another notice will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Stephen Solem; Regional Appeals Coordinator; Northern Region; P.O. Box 7669; Missoula, Montana 59807. Phone: (406) 329-3647.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana:
The Missoulian, Missoula, Montana
Great Falls Tribune, Great Falls, Montana
The Billings Gazette, Billings, Montana
Regional Forester decisions in Northern Idaho and Eastern Washington:
The Spokesman Review, Spokane, Washington
Regional Forester decisions in North Dakota:
Bismarck Tribune, Bismarck, North Dakota
Regional Forester decisions in South Dakota:
Rapid City Journal, Rapid City, South Dakota

Beaverhead National Forest

Beaverhead Forest Supervisor, Wise River District Ranger, Wisdom District Ranger and Sheridan District Ranger decisions:
Montana Standard, Butte, Montana
Madison District Ranger Decisions:
Montana Standard, Butte, Montana
Bozeman Chronicle, Bozeman, Montana

Bitterroot National Forest

Bitterroot Forest Supervisor and District Ranger decisions:
Ravalli Republic, Hamilton, Montana

Clearwater National Forest

Clearwater Forest Supervisor and District Ranger decisions:
Lewiston Morning Tribune, Lewiston, Idaho

Custer National Forest

Custer Forest Sepervisor decisions in North Dakota:
Bismarck Tribune, Bismarck, North Dakota
Custer Forest Supervisor decisions in South Dakota:
Rapid City Journal, Rapid City, South Dakota
Custer Forest Supervisor decisions in Montana:
Billings Gazette, Billings, Montana
Sheyenne District Ranger decisions:
Fargo Forum, Fargo, North Dakota
Beartooth District Ranger decisions:
Carbon County News, Red Lodge, Montana
Sioux District Ranger decisions:
Nation's Center News, Buffalo, South Dakota
Ekalaka Eagle, Ekalaka, Montana
Ashland District Ranger decisions:
Billings Gazette, Billings, Montana
Grand River District Ranger decisions:
Lemmon Leader, Lemmon, South Dakota
Adams County Record, Hettinger, North Dakota
Medora District Ranger decisions:
Dickinson Press, Dickinson, North Dakota
McKenzie District Ranger decisions:
Williston Daily Herald, Williston, North Dakota

Deerlodge National Forest

Deerlodge Forest Supervisor and Ranger District decisions:
Montana Standard, Silver Bow County, Montana

Flathead National Forest

Flathead Forest Supervisor and District Ranger decisions:
The Daily Inter Lake, Kalispell, Montana
Only in the Sunday Edition

Gallatin National Forest

Gallatin Forest Supervisor, Bozeman District Ranger, Hebgen Lake District Ranger, Livingston District Ranger, and Gardiner District Ranger decisions:
Bozeman Daily Chronicle, Bozeman, Montana
Big Timber District Ranger decisions:
Billings Gazette, Billings, Montana

Helena National Forest

Helena Forest Supervisor and District Ranger decisions:
Independent Record, Helena, Montana

Idaho Panhandle National Forests

Idaho Panhandle Forest Supervisor and District Ranger decisions:
Spokesman Review, Spokane, Washington
Coeur d'Alene Press, Coeur d'Alene, Idaho

Kootenai National Forest

Kootenai Forest Supervisor, Rexford District Ranger, Three Rivers District Ranger, Libby District

Ranger, Fisher River District Ranger decisions:
Western News, Libby, Montana
Fortine District Ranger decisions:
Tobacco Valley News, Eureka, Montana
Cabinet District Ranger decisions:
Sanders County Ledger, Thompson Falls, Montana

Lewis and Clark National Forest

Lewis and Clark Forest Supervisor decisions:
Great Falls Tribune, Great Falls, Montana
Rocky Mountain District Ranger decisions:
Great Falls Tribune, Great Falls, Montana
Choteau Acantha, Choteau, Montana
Sun Valley Sun, Augusta, Montana
Glacier Reporter, Browning, Montana
Judith District Ranger decisions:
Great Falls Tribune, Great Falls, Montana
Judith Basin Press, Stanford, Montana
News Argus, Lewistown, Montana
River Press, Fort Benton, Montana
Independent Record, Helena, Montana
Billings Gazette, Billings, Montana
Meagher County News, White Sulphur Springs, Montana
Havre Daily News, Havre, Montana
The Eagle, Stockett, Montana
Musselshell District Ranger decisions:
Great Falls Tribune, Great Falls, Montana
Times Clarion, Harlowton, Montana
Billings Gazette, Billings, Montana
Kings Hill District Ranger decisions:
Great Falls Tribune, Great Falls, Montana
Meagher County News, White Sulphur Springs, Montana
The Eagle, Stockett, Montana

Lolo National Forest

Lolo Forest Supervisor, Missoula District Ranger, Ninemile District Ranger, and Seeley Lake District Ranger decisions:
Missoulian, Missoula, Montana
Plains/Thompson Falls District Ranger decisions:
Sanders County Ledger, Thompson Falls, Montana
Superior District Ranger decisions:
Mineral Independent, Plains, Montana

Nezperce National Forest

Nezperce Forest Supervisor, Salmon River District Ranger, Clearwater District Ranger, Red River District Ranger and Moose Creek District Ranger decisions:
Idaho County Free Press, Grangeville, Idaho
Selway District Ranger decisions:
Idaho County Free Press, Grangeville, Idaho
Clearwater Progress, Kamiah, Idaho.

Dated: April 28, 1992.

John M. Hughes,

Deputy Regional Forester.

[FR Doc. 92-10296 Filed 5-1-92; 8:45 am]

BILLING CODE 3410-11-M

Boundary Extension, Ouachita National Forest, AR

AGENCY: Forest Service, USDA.

ACTION: Notice of boundary extension.

SUMMARY: The Secretary of Agriculture has extended the Ouachita National Forest boundary to include 3,678.22 acres more or less in Le Flore County, Oklahoma, which were recently acquired through purchase. A copy of the Secretary's establishment document which includes the legal description of the lands within the extension appears at the end of this notice.

DATES: This boundary extension is effective February 18, 1992.

ADDRESSES: A copy of the map showing the boundary extension is on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Ralph Bauman, Lands Staff, 4 South, Forest Service, USDA, P.O Box 96090, Washington, DC 20090-6090 (202) 205-1248.

SUPPLEMENTARY INFORMATION: Pursuant to the authority under section 20(d), Winding Stair Mountain National Recreation and Wilderness Act of October 18, 1988, Public Law 100-499 (102 Stat. 2491), the Secretary of Agriculture has extended the Ouachita National Forest boundary. The Act provided authority to the Secretary of Agriculture to acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. This Act also provided that the Secretary would extend the boundaries of the Ouachita National Forest to include such lands.

Dated: April 23, 1992.

George M. Leonard,

Associate Chief.

Ouachita National Forest Boundary Extension

Pursuant to the Secretary of Agriculture's authority under section 20(d), Public Law 100-499 (102 Stat. 2491) the Ouachita National Forest boundary is hereby extended to include the follwoing lands.

Le Flore County, Oklahoma, Indian Meridian

T. 1 N., R. 26 E.,
Sec. 6, SE¼NW¼, Lots 3, 4, 5.
T. 1 N., R. 25 E.
Sec. 3; sec. 9, NE¼, SW¼, SE¼.
T. 2 N., R. 26 E.,
Sec. 31, NE¼, E½W½, Lots 1 to 4 inclusive.
T. 2 N., R. 25 E.
Sec. 34 except 3.71 acres, more or less in the NW¼NW¼ as described in the deed at Book 322, page 70, Le Flore County Records; sec. 35; sec. 36.

The areas described aggregate 3,678.22 acres more or less.

As provided by Public Law 100-499, the lands described shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911 (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the National Forest System.

Dated: February 18, 1992.

James R. Moseley,

Assistant Secretary, Natual Resources and Environment.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 911224-1324]

Foreign Availability Determination: Air Cushion Vehicles/Surface Effect Ships

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: The Department of Commerce has determined that foreign availability of certain air cushion vehicles and surface effect ships controlled under ECCN 1416(b) of the former Commodity Control List exists to controlled destinations.

Air cushion vehicles and surface effect ships are controlled principally under ECCN 8A01(f) of the new Commerce Control List (CCL) (15 CFR 799.1, supp. 1).

FOR FURTHER INFORMATION CONTACT: Steve Goldman, Director, Office of Foreign Availability, room SB-097, Department of Commerce, Washington, DC 20230; Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to

the extent permitted by law, the provisions of the EAA and the Export Administration Regulations in Executive Order 12730 of September 30, 1990.

Part 791 of the Export Administration Regulations (EAR) (15 CFR 730 *et seq.*) establishes the procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security purposes. The Secretary of Commerce or his designee determines whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available in fact to such countries from a foreign source in quantities sufficient to render the controls ineffective in achieving their purpose.

On March 15, 1987, OFA initiated a foreign availability assessment of certain air cushion vehicles and surface effect ships to controlled destinations. These items were controlled under ECCN 1416(b) of the former Commodity Control List. Air cushion vehicles and surface effects ships are currently controlled under ECCN 8A01A(f) of the new Commerce Control List and under certain other ECCNs, including but not limited to, 8A01A (k), (l), (n), and 8A94F.

OFA provided its assessment and recommendation to the Deputy Assistant Secretary for Export Administration. The Deputy Assistant Secretary has considered the assessment and other relevant information and has determined that foreign availability to controlled destinations exists within the meaning of section 791 of the EAR for: Certain fully skirted amphibious surface effect vehicles with speed capabilities of 30 knots or less in sea state 3 (1.25m) or less, and having a cushion density (pressure) of 80 pounds per square foot (psf) or less, and a light ship (empty vehicle weight) to full load weight (vehicle with maximum payload) ratio of 0.70 or greater; certain rigid sidewalled surface effect vehicles with speed capabilities of 40 knots or less in sea state 5 (3.25m) or less; and, specially designed components for the vessels as defined above; Skirts, seals, and fingers as well as the lift fans for both fully skirted and rigid sidewall surface effect vehicles. This determination does not apply to vehicles that exceed the above capabilities, including the specified speed and sea state capabilities. All interested government agencies, including the Departments of State and Defense, were provided an opportunity to review and comment on the assessment and determination.

In the fall of 1990, the United States incorporated OFA's assessment and recommendation into the USG Core List proposal to the COCOM allies. COCOM accepted the USG proposal. The removal of national security based licensing requirements on these hovercraft, therefore, was incorporated into the regulatory changes to the U.S. Commerce Control List implementing the new COCOM Core List. These hovercraft remain controlled to certain destinations, however, for foreign policy reasons (e.g., ECCN 8A94F).

If OFA receives new evidence concerning this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director of the Office of Foreign Availability at the above address.

Dated: April 24, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-10342 Filed 5-1-92; 8:45 am]

BILLING CODE 3510-DF-M

National Institute of Standards and Technology

[Docket No. 920490-2090]

RIN 0693-AA59

Proposed Withdrawal of Eight Federal Information Processing Standards (FIPS); Family of Input/Output Interface Standards

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The purpose of this notice is to announce the proposed withdrawal of eight (8) Federal Information Processing Standards (FIPS). This family of input/output interface standards is proposed for withdrawal because of changes in the marketplace and in computer technology. Standard computer system interfaces are widely used by computer and peripheral system manufacturers, and there is no longer any need for the Federal government to require the use of standards for interconnecting periphreral systems and computers. Further, agencies have requirements for advanced technology to support processing speeds that are well beyond the data transfer rates supported by these FIPS.

The family of I/O interface standards proposed for withdrawal are the following:

—FIPS 60-2, I/O Channel Interface, revised December 18, 1990.

—FIPS 61-1, Channel Level Power Control Interface, revised December 18, 1990.

—FIPS 62, Operational Specifications for Magnetic Tape Subsystems, revised December 18, 1990.

—FIPS 63-1, Operational Specifications for Variable Block Rotating Mass Storage Subsystems, revised December 18, 1990; Supplement to FIPS PUB 63-1, Additional Operational Specifications for Variable Block Rotating Mass Storage Subsystems, revised December 18, 1990.

—FIPS 97, Operational Specifications for Fixed Block Rotating Mass Storage Subsystems, revised December 18, 1990.

—FIPS 111, Storage Module Interfaces (with extensions for enhanced storage module interfaces), revised December 18, 1990.

—FIPS 130, Intelligent Peripheral Interface (IPI), revised December 18, 1990.

—FIPS 131, Small Computer System Interface (SCSI), revised December 18, 1990.

Prior to the submission of this proposed withdrawal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may obtain copies of these standards from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, telephone (703) 487-4650.

DATES: Comments on this proposed withdrawal must be received on or before August 3, 1992.

ADDRESSES: Written comments concerning the withdrawal should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed Withdrawal of Eight I/O Standards, Technology Building, room B-154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in reponse to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION, CONTACT: Ms. Shirley Radack, National Institute of Standards and Technology,

Gaithersburg, MD 20899, telephone (301) 975–2833.

Authority: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Dated: April 27, 1992.

John W. Lyons,

Director.

[FR Doc. 92–10265 Filed 5–1–92; 8:45 am]

BILLING CODE 3510–CN–M

[Docket No. 920486–2086]

RIN 0693–AB03

Proposed Federal Information Processing Standard (FIPS) for Standard Page Description Language (SPDL)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: A Federal Information Processing Standard is proposed for Standard Page Decription Language (SPDL). This proposed standard will adopt the International Standards Organization International Electrotechnical Commission Standard Page Description Language (SPDL), ISO/IEC DIS 10180.

This proposed standard defines a device-independent format for representing documents in their final, fully formatted form, to printers or other presentation processes. It combines the image description technology of modern page description languages with a document structure which enables efficient processing and page image management.

Prior to the submission of this proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and state and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the technical specifications (ISO/IEC DIS 10180) from the American National Standards Institute, 11 West 42nd Street, 13th Floor, New York, NY 10036, (212) 642–4900.

DATES: Comments on this proposed FIPS must be received on or before August 3, 1992.

ADDRESSES: Written comments concerning the proposed FIPS should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed FIPS for SPDL, Technology Building, room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Magaly Lenker, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975–2867.

Dated: April 27, 1992.

John W. Lyons,

Director.

Draft Federal Information Processing Standards Publication _____ (Date), Announcing the Standard for Standard Page Description Language (SPDL)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. Name of Standard. Standard Page Description Language (SPDL) (FIPS PUB _____).

2. Category of Standard. Software Standard, Electronic Document Interchange, Programming Languages; Hardware Standard, Computer Printers.

3. Explanation. This publication announces the adoption of the International Standards Organization International Electrotechnical Commission Standard Page Description Language (SPDL), ISO/IEC DIS 10180, as a Federal Information Processing Standard (FIPS).

SPDL defines a device-independent format for representing documents in their final, fully formatted form, to printers or other presentation processes. It combines the image description technology of modern page description languages with a document structure which enables efficient processing and page image management.

SPDL documents may be comprised of character text, sampled images, and geometric graphics. Character text may be presented using standard or proprietary fonts in any size and angle of rotation. Sampled image data may be included in the document or external, and may be compressed using any of several standard or proprietary methods. Geometric graphics include stroked lines and curves, and areas bounded by combinations of straight line segments and/or geometric curves, which may also be used as clipping regions. SPDL enables the use of indexed and private named color representation methods as well as multiple standard color representations. There is also provision for printing instructions for media selection, document finishing, and document production control.

SPDL provides two document representation formats for interchange: A clear text interchange format and a binary interchange format. The clear text document structure representation format conforms to ISO 8879:1986, Information Processing—Text and Office Systems—Standard Generalized Markup Language (SGML), using ISO 646:1983, Information Processing—ISO 7-Bit Coded Character Set for Information Interchange Character Codes, while the binary structure representation format conforms to ISO/IEC 8824:1990, Information Technology—Open Systems Interconnection—Specification of Abstract Syntax Notation One (ASN.1), using the basic encoding rules defined in ISO/IEC 8825:1990, Information Technology—Open Systems Interconnection—Specification of Basic Encoding Rules for Abstract Syntax Notation One (ASN.1.).

SPDL integrates document description architecture with the font architecture defined by ISO/IEC 9541–1:1991, Information Processing—Font Information Interchange—Part 1: Architecture, and with print service architecture defined by ISO/IEC DIS 10175, Information Processing—Text and Office Systems—Document Printing Application. It supports the requirements of the publishing industry as well as the office, and provides a means of representing the results of Standard Generalized Markup Language (SGML) documents that have been formatted according to formatting specifications defined by ISO/IEC DIS 10179, Information Processing—Text and Office Systems—Document Style

Semantics and Specification Language (DSSSL).

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (Computer Systems Laboratory).

6. Cross Index. International Standards Organization International Electrotechnical Commission ISO/IEC DIS 10180, Information Processing—Text and Office Systems—Standard Page Description Language (SPDL).

7. Related Documents.

a. Federal Information Processing Standards (FIPS) Publication 29–2, Interpretation Procedures for Federal Information Processing Standards for Software.

b. Federal Information Resources Management Regulations subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

c. ISO 646:1983, Information Processing—ISO 7-Bit Coded Character Set for Information Interchange.

d. ISO/IEC 8824:1990, Information Technology—Open Systems Interconnection—Specification of Abstract Syntax Notation One (ASN.1).

e. ISO/IEC 8825:1990, Information Technology—Open Systems Interconnection—Specification of Basic Encoding Rules for Abstract Syntax Notation One (ASN.1.).

f. ISO 8879:1986, Information Processing—Text and Office Systems—Standard Generalized Markup Language (SGML).

g. ISO/IEC 9070:1991, Information Technology—SGML Support Facilities Registration Procedures for Public Text Owner Identifiers.

h. ISO/IEC 9541–1: 1991, Information Processing—Font Information Interchange—Part 1: Architecture.

i. ISO/IEC 9541–2:1991, Information Processing—Font Information Interchange—Part 2: Interchange Format.

j. ISO/IEC 9541–3:1991, Information Processing—Font Information Interchange—Part 3: Shape Representation.

k. IEEE 854–1987, IEEE Standard for Radix-Independent Floating Point Arithmetic.

8. Objectives. The primary objectives of this standard are:

—To promote the interchange of documents images between systems of different manufacturers.

—To provide a wide variety of printing and publishing imaging environments.

—To allow future development in imaging technology.

—To provide for a variety of hardware and software configurations meeting a variety of user connectivity needs.

9. Applicability. This standard is applicable whenever a document is to be imaged on screen, or imaged on a page. It is also applicable when an image is to be transmitted. To support the interchange of SPDL documents in a variety of environment, SPDL provides two document representation formats: A binary interchange format and a clear text interchange format. The binary structure representation format conforms to ISO/IEC 8824:1990, Information Processing Systems-Open Systems Interconnection-Specification of Abstract Syntax Notation One (ASN.1), using the basic encoding rules defined in ISO/IEC 8825:1990, Information Technology-Open Systems Interconnection-Specification of Basic Encoding Rules for Abstract Syntax Notation One (ASN.1), while the clear text structure representation format conforms to ISO 8879:1986, Information Processing-Text and Office Systems-Standard Generalized Markup Language (SGML) using ISO 646:1983, Information Processing-ISO 7-Bit Coded Character SEt for Information Interchange Character Codes. SPDL also specifies two encodings of the token sequence which comprise the content: a compact binary encoding and a human-readable clear text encoding.

This standard is intended to be used for documents that are generated by any text processing system. It is particularly applicable to:

—documents that are intended for electronic printed output;

—documents viewed on windowing systems;

—documents that are interchanged among systems with differing text output devices.

The use of FIPS SPDL programming language applies when one or more of the following situation exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The program will or might be run on equipment other than for which the program is initially written.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

Documents that exist solely in processable form are not within the scope of applicability of this standard.

10. Specifications. This standard adopts ISO/IEC DIS 10180, Standard Page Description Language (SPDL), which defines the scope of the specifications, the field of application, the syntax and semantics of SPDL constructs, and requirements for conforming SPDL applications and documents.

11. Implementation Schedule. This standard is compulsory and binding. The implementation of this standard involves two areas of consideration: Acquisition of SPDL systems and interpretation of the syntax and semantics of SPDL constructs.

11.1 Acquisition of SPDL Systems. This standard is effective six (6) months after date of publication of final document in the **Federal Register** of its approval by the Secretary of Commerce. SPDL systems provide the ability to image SPDL documents for displaying with either screen or printers. These systems also may contain document processes and text editors that generate SPDL documents to be imaged. SPDL systems developed or acquired for Federal use after this date should implement this standard. Conformance to this standard should be considered whether SPDL systems are developed internally, acquired as part of a computer systems procurement, acquired by separate procurement, used under a computer system leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce SPDL systems conforming to the standard. The transition period begins on the effective date and continues for one (1) year thereafter. The provision of this standard apply to orders placed after the effective date.

11.2 Interpretation of FIPS SPDL. NIST provides for the resolution of questions regarding FIPS SPDL specifications and requirements, and issues official interpretation as needed. All questions about the interpretation of FIPS SPDL should be addressed to: Director, Computer Systems Laboratory, Attn: FIPS SPDL Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899.

12. Special Information. The following documents are not included in the Reference Section because they are currently in the process of becoming standards. Upon completion of the process these documents may in the future be included in the Reference Section in the ISO/IEC DIS 10180.

—ISO/IEC DIS 10179, Information Processing-Text and Office Systems-Document Style Semantics and specification Language (DSSSL).

—ISO/IEC DIS 10175, Information Processing-Text and Office Systems-Document Printing Application.

13. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required findings(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; Attn: FIPS Waiver Decisions, Technology Building, room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

14. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Specify microfiche, if desired. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 92–10286 Filed 5–1–92; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Florida Keys National Marine Sanctuary Advisory Council; Meeting

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Florida Keys National Marine Sanctuary Advisory Council; open meeting.

SUMMARY: The Council was established in December 1991 to advise and assist the Secretary of Commerce in the development and implementation of the comprehensive management plan for the Florida Keys National Marine Sanctuary.

TIME AND PLACE: May 18 and 19, 1992 from 9 a.m. until adjournment. The meeting will take place at The Reach, 1435 Simonton St., Key West, Florida.

AGENDA:

1. Review management strategies to address resource problems and issues.

2. Receive presentation on Phase II of the Water Quality Protection Plan.

3. Receive presentation on research plan for sanctuary.

PUBLIC PARTICIPATION: The meeting will be open to public participation and the last thirty minutes will be set aside for oral comments and questions. Seats will be set aside for the public and the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Pamela James at (305) 745–2437 or Ben Haskell at (202) 606–4122.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program.

Dated: April 28, 1992.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92–10302 Filed 5–1–92; 8:45 am]

BILLING CODE 3510–08–M

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of renewal.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), and after consultation with GSA, it has been determined that the renewal of the charter of the Public Advisory Committee for Trademark Affairs is in the public interest in connection with the performance of duties imposed on the Department by law.

SUPPLEMENTARY INFORMATION: The Committee was first established in September 1970, and its latest renewal was signed on April 3, 1992. The Committee's purpose is to advise the Patent and Trademark Office concerning steps which can be taken to increase the efficiency and effectiveness of administration of the Trademark Act and to provide a continuing source of knowledge from the private sector to the Government in the area of international and domestic trademark law.

Committee members are drawn from the trademark bar, business and industry, academia, the public at large, and users of the public search room, and are selected by the Assistant Secretary of Commerce and the Commissioner of Patents and Trademarks to assure a balanced representation among members of the trademark community. The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Lynne Beresford, Committee Control Officer, Office of the Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, DC 20231, telephone: (703) 305–9464, or Jan Jivatodi, Committtee Management Analyst, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–4299.

Dated: April 24, 1992.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 92–10277 Filed 5–1–92; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bahrain

April 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing export visa requirements.

EFFECTIVE DATE: June 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Bahrain reached agreement, effected by exchange of notes dated January 28, 1991 and September 9, 1991, to establish an export visa arrangement for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bahrain and exported from Bahrain on and after June 1, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 29, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Export Visa Arrangement, effected by exchange of notes dated January 28, 1991 and September 9, 1991, between the Governments of the United States and Bahrain; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 1, 1992, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, produced or manufactured in Bahrain and exported from Bahrain on and after June 1, 1992 for which the Government of Bahrain has not issued an appropriate export visa fully described below.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO)(the code for Bahrain is "BH"), and a six digit numerical serial number identifying the shipment; e.g., 2BH123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation shall be reported in the spaces provided within the visa stamp (e.g., "Cat. 340–510 DOZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

If the visa is not acceptable then a new visa must be obtained from the Government of Bahrain, or its designate, or a visa waiver may be issued by the U.S. Department of Commerce at the request of the Embassy of Bahrain in Washington, DC, and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less, do not require a visa for entry.

A facsimile of the visa stamp is enclosed with this letter.

The actions taken concerning the Government of Bahrain with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register.**

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–10319 Filed 5–1–92; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Export Visa and Certification Requirements for Certain Wool Textile Products Produced or Manufactured in Costa Rica

April 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements.

EFFECTIVE DATE: May 4, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement and certification system between the Governments of the United States and Costa Rica is being amended to include coverage of wool textile products in

Category 443, produced or manufactured in Costa Rica and exported from Costa Rica on and after April 21, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 26, 1991). Also see 55 FR 21047, published on May 22, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 29, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 15, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in Costa Rica which were not properly visaed or certified by the Government of Costa Rica.

Effective on May 4, 1992, you are directed to amend further the May 15, 1990 directive to require an export visa or certification for shipments of wool textile products in Category 443, produced or manufactured in Costa Rica and exported from Costa Rica on and after April 21, 1992. Merchandise in Category 443 which has been exported prior to April 21, 1992 shall not be denied entry for lack of a visa or certification.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa or certification shall be denied entry and a new visa or certification must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-10320 Filed 5-1-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF ENERGY

[Docket No. EA-15-K]

Amendment of Export Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: Central Power and Light has requested an amendment to the electricity export authorization contained in Docket No. IT-5656.

DATES: Comments, protests or requests to intervene must be submitted on or before June 3, 1992.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE-52), Office of Fuels Program, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket Number EA-15-K should appear clearly on the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Lise Howe (Program Attorney) 202-586-2900.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act.

On April 17, 1992, Central Power and Light Company (CPL) applied to the Department of Energy (DOE) for authorization to increase the allowable level of electricity exports to Mexico over its Brownsville-to-Matamoros interconnection. CPL is currently authorized to export electricity to the Comision Federal de Electricidad (CFE), the Mexican national electric utility, over a single 69-kilovolt (kV) interconnection. In a related application filed with the DOE on December 23, 1991, and docketed as PP-94, CPL applied for a Presidential permit in order to relocate the 69-kV transmission line and to construct a new 138-kV transmission line in the Brownsville area.

In its application, CPL described the interconnection agreement currently being negotiated between itself and CFE as well as their current Emergency Assistance Agreement.

Under the existing electricity export authorization issued on October 29, 1962, CPL is authorized to export electricity from the U.S. to Mexico in an amount not to exceed 110,000 kilowatt-hours (KWH) per year at a rate not to exceed 35 megawatts (MW) over the existing 69-kV transmission line at the Brownsville-to-Matamoros interconnection. In Docket EA-15-K, CPL requests that it be permitted to increase its exports of electricity to Mexico over the facilities proposed in Docket PP-94 by eliminating the annual energy limitation and by increasing the maximum rate of transmission to 300 MW (the estimated maximum power transfer capability from the CPL system to the CFE system at Matamoros).

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with: C.E. Orsak, Coordinator, Inter-Utility Affairs, Central Power and Light, P.O. Box 2121, Corpus Christi, TX 78403 and Donna J. Bobbish, Esq., Jones, Day, Reavis & Pogue, Metropolitan Square, 1450 G Street, NW., Washington, DC 20005-2088.

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or a security-holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the proposed action will not impair the sufficiency of electric supply within the United States or impede or tend to impede the coordination in the public interests of facilities subject to the jurisdiction of the DOE.

Before an export authorization may be issued, the environmental impacts of the proposed DOE action (i.e., granting the export authorization, with any conditions and limitations, or denying it) must be evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA). The DOE has prepared an environmental assessment in Docket PP-94 (DOE/EA-0703) that contains information necessary for any required evaluation of the potential environmental impacts of CPL's proposed amendment to its export authorization.

Copies of this application and the environmental assessment will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on April 27, 1992

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-10354 Filed 5-1-1992; 8:45 am]

BILLING CODE 6450-01-M

[Docket IE-78-6]

Northern State Power Co.; Withdrawal of Application to Amend Export Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Withdrawal of application to amend export authorization.

SUMMARY: Northern States Power Company (NSP), by its counsel, has requested that the application to amend the electricity export authorization contained in Docket No. IE-78-6 be withdrawn without prejudice to its filing in the future of a new application requesting amendment of its export authorization.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Coal & Electricity (FE-52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5883.

Lise Courtney Howe, Office of General Counsel (GC-41), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act. On June 10, 1991, NSP applied to amend its Order in Docket No. IE-78-6 authorizing the export of electrical energy to Canada. Receipt of this application was noticed in the **Federal Register** on July 22, 1991 (56 FR 33423). As a part of the application, NSP supplied a copy of a new diversity exchange agreement, which will be effective in 1995, between NSP and Manitoba Hydro providing for the seasonal exchange of 200 megawatts (MW) of electrical power. Under the agreement, NSP will make 200 MW available to Manitoba Hydro at all times during the winter season. NSP indicated in its application that the need for the amendment is occasioned by this new agreement.

On January 17, 1992, NSP notified the DOE of its decision to withdraw, without prejudice to future filings, its application for an amendment of its existing export authorization.

Issued in Washington, DC, on April 27, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs Office of Fossil Energy.

[FR Doc. 92-10356 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Public Meeting for the Krakow Clean Fossil Fuels and Energy Efficiency Program

AGENCY: Office of Fossil Energy, U.S. Department of Energy.

ACTION: Notice of public meeting for the Krakow Clean Fossil Fuels and Energy Efficiency Program.

INTRODUCTION: The Support for Eastern European Democracy Act (SEED) of 1989 authorized a program of assistance for the control of pollution from low emission sources in Krakow, Poland. The U.S. Department of Energy and the Ministry of Environmental Protection of Poland are cooperating in the Krakow Clean Fossil Fuels and Energy Efficiency Program, under SEED, to implement five pilot projects to serve as examples of cost-effective pollution control, accomplished through free market economics. Funds for the project are provided by the U.S. Agency for International Development. The program is organized to provide business opportunities for U.S. companies in Krakow, Poland will get assistance to begin the cleanup of an historic city that is suffering from pollution.

PURPOSE OF THE MEETING: The U.S. Department of Energy will conduct a Public Meeting to provide background information on the project; to describe the planned approach for an upcoming competitive solicitation that offers a significant opportunity for U.S. companies interested in business opportunities in Poland; and to obtain comments and answer questions before U.S. Department of Energy solicitation plans are finalized.

LOCATION AND DATES: The Public Meetings will be held on Thursday, June 18, 1992, in Chicago, at the Courtyard Marriott, 30 E. Hubbard, Chicago, Illinois (Tel. 312-329-2500); and on Monday, June 22, 1992, at the Washington Marriott Hotel, 1221 22d Street, NW., Washington, DC (Tel. 202-872-1500).

The Public Meetings will begin at 10:30 a.m. and end at 5 p.m. Registration for the meetings will start at 8:30 a.m. Both U.S. and Polish officials will be included on the agenda. The Meetings will be held in Plenary Sessions and the agenda will include: A description of the background of the program, identification of five pilot projects, discussion of the Krakow situation, discussion of objectives, approach, cost-sharing requirements and preproposal conference of the planned solicitation. The planned public meeting in Poland will be discussed.

PUBLIC PARTICIPATION: Individuals who plan to attend the Public Meetings should register with the U.S. Department of Energy (DOE) in advance of the meetings. Contact should be made with Dr. Howard Feibus, Director, FE-232, Office of Fossil Energy, U.S. Department of Energy, Washington, DC 20585 (Tel. 301-903-4348). Attendees are responsible for making their own travel and lodging arrangements.

James G. Randolph,

Assistant Secretary, Fossil Energy.

[FR Doc. 92-10349 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

Coal Policy Committee; National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council (NCC).

Date and Time: Wednesday, May 20, 1992, 9 a.m.

Place: Sheraton Inner Harbor, 300 S. Charles Street, Baltimore, Maryland.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-3867.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting: To discuss progress on current studies.

Tentative Agenda

—Call to order and opening remarks by William Wahl, Chairman of the Coal Policy Committee.
—Remarks by Department of Energy representative.
—Externalities presentations.
—Discuss progress on current studies.
—Discussion of any other business to be properly brought before the Committee.
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a

fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Ave, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 29, 1992.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 92–10347 Filed 5–1–92; 8:45 am]

BILLING CODE 6450–01–M

National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 92–463, 86 Stat. 770), notice is hereby given the following meeting:

Name: National Coal Council.

Date and Time: Thursday, May 21, 1992, 9:30 a.m.

Place: Sheraton Inner Harbor, 300 S. Charles Street, Baltimore, Maryland.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, Telephone: 202/586–3867.

Purpose of the Council: To provide advice, information and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

—Call to order by W. Carter Grinstead, Jr., Chairman of the National Coal Council.
—Remarks by Chairman Grinstead.
—Remarks by the Honorable James D. Watkins, Secretary of Energy, (Invited).
—Additional remarks by invited guests to be determined.
—Report of the Coal Policy Committee.
—Report of the Finance Committee.
—Report of the Nominating Committe—election of 1992–93 officers.
—Comments of chairman-elect.
—Discussion of any other business properly brought before the Council.
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 29, 1992.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 92–10348 Filed 5–1–92; 8:45 am]

BILLING CODE 6450–01–M

[Dockets PP–92 and EA–48–I]

El Paso Electric Co.; Issuance of Presidential Permit Amendment of Electricity Export Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of issuance.

SUMMARY: The Office of Fossil Energy has issued a Presidential permit to El Paso Electric to construct a new electric transmission line at the U.S./Mexican border. Also granted is an amendment to El Paso Electric's existing electricity export authorization allowing an increase in electricity transfers to Mexico.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) at 202–586–9624 or Lise Howe (Program Attorney) at 202–586–2900.

SUPPLEMENTARY INFORMATION: On April 16, 1992, the Office of Fossil Energy (FE) issued a Presidential permit to El Paso Electric Company (EPE) to construct, connect, operate, and maintain a new, 2.34-mile long, 115-kilovolt (kV) transmission line extending from EPE's existing Diablo Substation in Sunland Park, New Mexico, southward to the U.S. border with Mexico. EPE's application, contained in Docket PP–92, was filed with FE on September 5, 1991.

Also on April 16, 1992, FE amended EPE's existing electricity export authorization providing for an increase in the maximum rate of transmission from 150,000 kilowatts (KW) to 200,000 KW. EPE's application, filed on September 5, 1991, is contained in Docket EA–48–I.

In considering these applications, FE prepared an Environmental Assessment (EA) which addressed the environmental impacts of the proposed actions and their alternatives. Based on the information contained in this EA, the Assistant Secretary for Environment, Safety and Health issued a Finding of No Significant Impact on April 15, 1992. FE also determined that the operation of the new facilities and the increased rate of export would not adversely impact the reliability of the U.S. electric power supply system. In addition, the Departments of State and Defense concurred in the issuance of the Presidential permit.

A copy of the Presidential permit and amended electricity export authorization are available for public inspection and copying at the Department of Energy, room 3F–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued in Washington, DC, on April 27, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10355 Filed 5–1–92; 8:45 am]

BILLING CODE 6450–01–M

[Docket PP–63–2]

Issuance of an Amendment to Presidential Permit in Docket PP–63 to Northern States Power Company

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Issuance of an amendment.

SUMMARY: The Office of Fossil Energy (FE) gives notice of the issuance, to Northern States Power Company (NSP) on April 14, 1992, of an Amendment to the Presidential permit in Docket PP–63–2. The amendment allows NSP to increase the electricity transfer capability between Canada and the U.S. by constructing a new 80-acre substation midway along the existing 500–kV line in Roseau County, Minnesota, and by upgrading the existing Forbes, Chisago, Kohlman Lake, and Red Rock substations.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5883.

Lise Courtney Howe, Office of General Counsel (GC–41), Department of Energy, Washington, DC 20585, (202) 586–2900.

SUPPLEMENTARY INFORMATION: On June 10, 1991, NSP applied to FE to amend the Presidential permit in Docket No. PP–63 which was issued on March 6, 1979. The facilities previously authorized by Presidential Permit PP–63 consist of one

500,000 volt (500–kV) overhead transmission line which crosses the U.S.-Canadian international border approximately seven and one half miles west of Warroad in Roseau County, Minnesota, and extends approximately 200 miles south of the Canadian border to a substation constructed in the vicinity of Forbes, Minnesota.

In its application, NSP proposed to increase the electricity transfer capability of this transmission facility by constructing a new 80-acre substation on the existing 500–kV line in Roseau County (Section 33 of Lake Township), Minnesota, and upgrading the existing substation at Forbes (Section 1 of Lavell Township), Minnesota. The proposed Roseau substation will contain two 41.5-ohm series capacitor banks. In addition, static VAR compensators (SVC) are to be installed at the existing Forbes Substation. Approximately 5 acres will be added to the 30-acre Forbes site to house the additional equipment. No new lines will enter or exist the facility. NSP proposes to place the new Roseau Substation in service in May 1993 and to complete the upgrading of the Forbes Substation in March 1994.

In considering this application, FE prepared an Environmental Assessment (EA) which addressed the environmental impacts of the proposed action and its alternatives. Based on the information contained in this EA, the Assistant Secretary for Environment, Safety and Health issued a Finding of No Significant Impact on April 14, 1992. FE also determined that the amendment of the Presidential permit would not adversely impact the reliability of the electric bulk power supply system within the United States. In addition, the Departments of State and Defense concurred in the issuance of the amendment to the permit.

A copy of the amendment to the Presidential permit is available for public inspection and copying at the Department of Energy, room 3F–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued in Washington, DC, on April 27, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10357 Filed 5–1–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP88–105–000; GP87–16–000]

Yukon Pacific Co. L.P.; Schedule for Public Scoping Meetings on Environmental Issues

April 28, 1992.

On January 31, 1992, the Federal Energy Regulatory Commission (FERC or Commission) issued a notice of intent to prepare a draft environmental impact statement (DEIS) and request for comments on environmental issues for the Yukon Pacific LNG Project (57 FR 4402) filed in Docket No. CP88–105–000. Yukon Pacific Company L.P. (Yukon Pacific), previously Yukon Pacific Corporation, is seeking approval of a specific site at Anderson Bay, Valdez, Alaska in order to export LNG to Japan, South Korea, and Taiwan, and for the construction of facilities on this site to liquefy pipeline natural gas for storage and ocean transport to the above Asian Pacific Rim market.

Yukon Pacific's proposed facilities include a 2.3 billion cubic feet of natural gas per day (Bcfd) liquefaction plant, four 800,000-barrel liquefied natural gas (LNG) storage tanks, a marine loading facility, and the operation of a fleet of 15 125,000 cubic meter capacity LNG tankers for transportation beyond U.S. territorial waters. These facilities and the upstream facilities to collect, condition, and deliver natural gas from Prudhoe Bay on Alaska's North Shore to Anderson Bay comprise the TransAlaska Gas System (TAGS) Project. Upstream facilities to collect and deliver natural gas from Prudhoe Bay to Anderson Bay consist of a 796.5-mile-long, 36-inch-diameter, buried pipeline system with a design capacity of 2.3 Bcfd, a gas conditioning plant, and 10 compressor stations. A Final Environmental Impact Statement (FEIS) for the TAGS project was completed and circulated to the public by the Bureau of Land Management (BLM) and the U.S. Army Corps of Engineers in June 1988.

Scoping Meetings

The Commission staff hereby announces the schedule of public scoping meetings on the above-referenced dockets.[1] The meetings will be conducted to identify the scope and significance of environmental impact associated with the proposal by Yukon Pacific. The schedule for the meetings is attached.

As referenced in the Commission's January 31, 1992 notice, the public scoping meetings are intended as an opportunity for State and local governments and the general public to provide information and assistance directly to the FERC staff regarding the range of environmental issues and concerns that need to be addressed in the impact analysis. As previously stated, Federal agencies with an interest in these proposals have formal channels for input into the analysis and are expected to coordinate with the FERC rather than through the public meeting mechanism. The FER staff expects to meet separately with Federal and state agencies requesting such meetings in Alaska during the week of May 18–22, 1992.

Persons who would like to make oral presentations at the public scoping meetings should contact the FERC project manager identified below to have their names placed on the speakers' list. Persons on the speakers' list prior to the date of the meeting will be allowed to speak first. A second speakers' list will be available for sign-up at the public meeting. Priority will be given to those persons representing groups.

In addition to the public scoping meetings and agency meeting, the FERC staff will conduct two technical conferences to examine (1) the seismic design aspects of the proposed LNG terminal and (2) the cryogenic design aspects of the terminal. The first technical conference will be held in Anchorage; the second in Valdez, Alaska.

Further information concerning the public scoping meetings, technical conferences, or about these proposals in general is available from: Mr. Chris M. Zerby, Project Manager, Office of Pipeline and Producer Regulation, Environmental Compliance and Project Analysis Branch, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., room 7312, Washington, DC 20426, Telephone (202) 208–0111.

Organizations and individuals receiving this Federal notice have been selected to ensure public awareness of this project and public involvement in the review process under the National Environmental Policy Act. Any subsequent information, including the environmental document, published regarding the Yukon Pacific LNG Project

[1] On April 27, 1992, the FERC staff transmitted a data request to Yukon Pacific with a response due back to FERC by May 7, 1992. Yukon Pacific is herein put on notice that the scoping and technical meetings being scheduled in this notice are contingent upon a timely response by Yukon Pacific to the data request.

will be sent automatically to the appropriate Federal agencies. However, to reduce printing and mailing costs and related logistical problems, the information will only be distributed to those organizations, state and local agencies, and individuals who return the attached appendix to this notice within 30 days. If you have previously submitted a request to receive information, you need not do so a second time.

Lois D. Cashell,

Secretary.

Schedule of FERC Public Scoping Meetings for the Yukon Pacific LNG Project

Date	Time	Location
Tuesday, May 19, 1992.	7 p.m.	Museum of History and Art, 121 W. 7th Ave., Anchorage, AK 99501.
Thursday, May 21, 1992.	7 p.m.	BLM Office Bldg., 1150 University Ave., Fairbanks, AK 99709-3844.
Tuesday, May 26, 1992.	7 p.m.	Valdez City Council Chambers, 201 Chenega Street, Valdez, AK.

Schedule of Technical Meeting to Discuss the Seismic Design Aspects [1] of the Anderson Bay LNG Terminal

Date	Time	Location
Wednesday, May 20, 1992.	9 a.m.	Yukon Room, Federal Building, 4th Floor, 222 West 7th Avenue, Anchorage, AK.

Schedule of Technical Meeting to Discuss the Cryogenic Design Aspects [1] of the Anderson Bay LNG Terminal

Date	Time	Location
Tuesday, May 26, 1992.	9 a.m.	Valdez City Council Chambers, 201 Chenega Street, Valdez, AK.

[1] These two meetings are oriented toward engineers/scientists versed in geotechnic/seismic design of LNG plants and in cryogenic engineering design of LNG plants. Although the public is not prevented from attending the two technical meetings, room is limited and seating priority will be given to those who need to actively participate in these technical discussions.

[FR Doc. 92-10285 Filed 5-1-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-50-000 and CP90-406-000]

High Island Offshore System; Rescheduling or Informal Settlement Conference

April 28, 1992.

Take notice that the informal settlement conference scheduled in this proceeding for May 6, 1992, at 10 a.m., has been rescheduled and will be convened on May 20, 1992, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Irene E. Szopo at (202) 208-1602, or Anja M. Clark (202) 208-2034.

Lois D. Cashell,

Secretary.

[FR Doc. 92-10284 Filed 5-1-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of March 27 Through April 3, 1992

During the week of March 27 through April 3, 1992, the applications for relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: April 27, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 27 through Apr. 3, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 19, 1992	Chester Allen Ingram, Washington, DC	RR272-90	Request for modification/rescission in the crude oil refund proceeding. If granted: A refund check for the refund amount previously granted to Chester Allen Ingram, Case No. RF272-3025, would be reissued.
Mar. 19, 1992	Mobil/Doucette Mobil, Washington, DC	RR225-42, RR225-43	Request for modification/rescission in the Mobil refund proceeding. If granted: The refund checks for refunds previously granted to Doucette Mobil (Case Nos. RF225-5319 and RF225-5340) would be reissued.
Mar. 19, 1992	Wilbert Kampwerth, Washington, DC	RR272-91	Request for modification/rescission in the crude oil refund proceeding. If granted: A refund check for the refund amount previously granted to Wilbert Kampwerth, Case No. RF272-71511 would be reissued.

REFUND APPLICATIONS RECEIVED

[Week of Mar. 27 to Apr. 3, 1992]

Date received	Name of refund proceeding/name of refund applicant	Case No.
03/30/92	City of New York	RC272-156.
03/30/92	U-Pump-Um, Inc	RF343-6.
03/31/92	Abe's Arco	RF304-12944.
03/31/92	Allenwood Arco	RF304-12945.
03/31/92	Bob's Arco	RF304-12946.
03/31/92	College Ave. Arco.	RF304-12947.
03/31/92	Oxford Arco	RF304-12948.
03/31/92	Richard's Arco Service.	RF304-12949.
03/31/92	Tahoe City Arco	RF304-12950.
03/31/92	Wally's Arco	RF304-12951.
03/30/92	Country Club Oil & Vine Hill.	RF309-1423.
04/02/92	Salem Blue Flame Gas Company.	RF340-106.
04/02/92	D & H Trading	RF340-107.
04/03/92	Mystic Fuel, Inc	RF304-12953.
04/01/92	Pester Refining Company.	RF340-105.
03/27/92 thru 04/03/92.	Texaco Refund Applications Received.	RF321-18547 thru RF321-18562.
03/27/92 thru 04/03/92.	Crude Oil Refund Applications Received.	RF272-92057 thru RF272-92084.
03/27/92 thru 04/03/92.	Gulf Oil Refund Applications Received.	RF300-19860 thru RF300-19880.
03/27/92 thru 04/03/92.	Apex/Clark Refund Applications Received.	RF342-176 thru RF342-189.
03/27/92 thru 04/03/92.	Shell Oil Refund Applications Received.	RF300-10193 thru RF300-10205.

[FR Doc. 92-10352 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of March 2 Through March 6, 1992

During the week of March 2 through March 6, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Hanford Education Action League, 3/6/92, LFA-0185

The Hanford Education League (HEAL) filed an Appeal from a determination issued by the Office of Communications of the Richland Operations Office of the DOE. The determination denied a Request for Information with HEAL submitted under the Freedom of Information Act. HEAL requested all drafts of a document entitled "Nuclear Materials Production Programs Monthly Status Report—May 1991." In considering the Appeal, the DOE found that no drafts of the requested document existed and that the Appeal was therefore moot. Accordingly, HEAL's Appeal was denied.

Refund Applications

Apex Oil Co., Clark Oil & Refining Corp./Ken Clark Super 100, et al., 3/2/92, RF342-13, et al.

The DOE issued a Decision and Order granting a total refund of $48,216 to ten direct purchasers of Clark Oil & Refining Corp. petroleum products.

Cellanese Fibers, Inc., Hoechst Celanese Chemical Group, 3/4/92, RF272-67327, RF272-67330

The DOE issued a Decision and Order denying refund Applications submitted in the subpart V crude oil special refund proceeding by Celanese Fibers, Inc. (CFI), and Hoechst Celanese Chemical Group (HCCG). Both applicants are subsidiaries of the Celanese Corporation. A third subsidiary of the Celanese Corporation, Celanese Trucking Division (CTD), had previously received a refund from the Surface Transporters Escrow pursuant to the Stripper Well Settlement Agreement. In order to receive the refund, CTD executed a waiver and release that waived the rights of CTD and all its affiliates to participate in the subpart V crude oil refund proceeding. Thus, under the terms of the Settlement Agreement, CFI and HCCG are ineligible for subpart V crude oil refunds. HCCG argued that it was still eligible for a refund because (1) CTD was not an affiliate within the meaning of the Settlement Agreement and (2) a special power of attorney that CTD submitted with the waiver and release purported to limit the effect of the waiver and release to CTD's own crude oil refund claims. The DOE found that HCCG's interpretation of an "affiliate" as defined in the Settlement Agreement was too narrow and that HCCG and CTD were affiliates. The DOE also found that the special power of attorney had not been received by the DOE and was therefore of no effect.

Shell Oil Company/John W. Stone Oil Distributor, Inc., 3/5/92, RF315-4648

The DOE issued a Decision and Order granting in part an Application for Refund filed in the Shell Oil Company Subpart V special refund proceeding on behalf of John W. Stone Oil Distributor, Inc. (Stone). In its Application, Stone asserted that Shell had improperly discontinued a $.0025 per gallon freight allowance and a $.01 per gallon discount. As a result, Stone claimed it was overcharged by $2,298,961, in excess of the refund that Stone would be eligible to receive based upon its purchases of 183,916,873 gallons of Shell products. On this basis, Stone claimed that it should receive a refund equal to its accumulated banks of unrecovered increased product costs during the consent order period or $136,711. The DOE found that Stone failed to provide evidence that it actually experienced the alleged overcharges. Specifically, Stone did not demonstrate that the discontinuation of the freight allowance and discount was improper nor did it provide any evidence indicating that a contemporaneous complaint had been made. In addition, the record showed that Stone has signed an amendment to Shell's price terms, indicating that it was a willing party to the agreement. Therefore, the DOE denied Stone's claim for an above-volumetric refund. In the alternative, Stone asked that it be awarded its full volumetric share of $41,565. As the firm's banks of unrecouped increased product costs were well in excess of its allowable share and its competitive disadvantage analysis clearly indicated that the firm was injured in its purchases from Shell, the DOE granted Stone a refund equal to its full allocable share of $41,565 plus $17,615 in interest.

Xerox Corporation, 3/4/92, RF272-42576, *RD272-42576*

The DOE issued a Decision and Order granting an Application for Refund filed by the Xerox Corporation in the Subpart V crude oil special refund proceeding. A group of States and Territories (States) objected to the Application on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objection, the States asserted that Xerox's net income remained high during the period of price controls and that Xerox commanded a dominant share of the office copier market. In addition, the States submitted an affidavit by an economist stating that, because of the relative elasticities of supply and demand, nearly every industry passes through a portion of its cost increases. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied the States' Motion for Discovery, finding that discovery

was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $77,421.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Apex Oil Co./Clark Oil/Carl's Clark et al	RF342-34	03/03/92
Atlantic Richfield Company/Roger's Arco	RF304-10024	03/05/92
East Side Oil Co	RF304-10307	
Joe's Arco	RF304-10843	
City of New York	RA272-46	03/04/92
Enron Corporation/Stockton Skelgas	RF340-6	03/06/92
Bos L.P. Gas	RF340-8	
Gulf Oil Corp./E.D. Carrell Trucking et al	RF300-11042	03/04/92
Meadows Realty Company/Arizona Public Service Company	RF327-6	03/04/92
Meadows Realty Company/Cool Fuel, Inc	RF327-3	03/04/92
Midstate Contractors, Inc	RF272-23990	03/05/92
Midstate Contractors, Inc	RD272-23990	
Tesoro Petroleum Corp./Department of Water and Power (Los Angeles, CA)	RF326-309	03/05/92
Texaco Inc./Brock's Texaco et al	RF321-893	03/03/92
Texaco Inc./Comly's Texaco et al	RF321-7723	03/02/92
Texaco Inc./Goodlettsville Texaco et al	RF321-3183	03/04/92
Texaco Inc./Markay Oil Co. et al	RF321-9902	03/06/92
Williams Brothers Asphalt Paving Co., Inc	RF272-72665	03/06/92
Woody's Superettes, Inc	RF272-48957	03/04/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Bill's Arco	RF304-11812
Black & White Texaco	RF321-5679
C & R Arco	RF304-9199
Charles Chronister's Gulf	RF300-14639
Columbus Oil Company	RF323-31
Dorchester Texaco	RF321-4879
Edwin S. Rothchild, Energy Policy Director.	LFA-0187
James L. Schwab	LFA-0188
M & R Service, Inc	RF304-12611
Mansfield Asphalt Paving	RF272-63828
Mayfield Oils, Inc	RF304-12021
Mount Vernon Asphalt	RF272-63827
Mr. Best Car Wash	RF300-15416
North Shore & Central Illinois Freight Company.	RF321-18237
Pepsi-Cola Company of Baltimore	RF272-65883
Rebel Gulf	RF300-15415
Thomas E. Frederick	RF321-2112
Yeager's Texaco	RF321-4805

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 24, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-10344 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of March 9 Through March 13, 1992

During the week of March 9 through March 13, 1992, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Atlantic Richfield Company/Arrow Enterprises, Inc., 3/12/92, *RF304-8957*

The DOE issued a Decision and Order granting a refund of $26,308 in principal plus $13,949 in accrued interest for a total of $40,257 to Arrow Enterprises, Inc. (Arrow), representing a full volumetric refund based upon purchases of 35,792,600 gallons of ARCO products. The firm submitted data which showed banks of unrecovered increased product costs substantially in excess of its full allocable share of the ARCO consent order fund. In addition, a competitive disadvantage analysis revealed that the firm paid prices higher than the market average in virtually all of its purchases of ARCO products.

Basic Resources, Inc., 3/12/92, *RF272-24800, RD272-24800*

The DOE issued a Decision and Order granting an Application for Refund filed by Basic Resources, Inc., a highway construction and construction materials production company, in the Subpart V crude oil refund proceeding. A group of States and Territories (States) objected to the application on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objection, the States submitted an affidavit of an economist stating that, in general, the construction industry was able to pass through increased petroleum costs. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied the States' Motion for Discovery, finding that discovery was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $68,508.

Diamond Industries, Inc./Paragon Oil Company, et al., 3/12/92, *RF325-1, et al.*

The DOE issued a Decision and Order concerning eight Applications for Refund submitted in the Diamond Industries, Inc. special refund proceeding. Six applicants received a refund based on their respective pro rata shares of the consent order monies. Two applicants, who elected not to prove injury, received the $5,000 small claims presumption. The sum of the refunds granted in this Decision is $21,327.

Marathon Petroleum Co./Lucky Stores, Inc., 3/10/92, RF250-2382

The DOE issued a Decision and Order concerning a refund application that Lucky Stores, Inc. (Lucky) had submitted in the Marathon Petroleum Company (Marathon) special refund proceeding. Lucky requested an above-volumetric

refund, arguing that Oasis Petroleum Corporation (Oasis) committed allocation violations for which Marathon was jointly and severally liable. The DOE found that Lucky had overstated its entitlement to product and injury and, more importantly, not made a reasonable demonstration that Marathon was liable for the alleged violations of Oasis. Accordingly, Lucky's application was denied.

Texaco Inc./Bridgeport Texaco, Hawkins Bros. Texaco, 3/10/91, RF321-12, RF321-1576

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding through Energy Refunds, Inc. (ERI). One application, Case No. RF321-12, was submitted on behalf of Steven Phipps, who claimed that he was the owner of Bridgeport Texaco during the refund period. The other application, Case No. RF321-1576, was submitted on behalf of Harold Hawkins, who claimed that he was the owner of Hawkins Bros. Texaco during the refund period. Based on the evidence submitted by the applicants and ERI, the DOE determined that both applications contained false information, and that neither of the applicants owned his respective station during the refund period. Accordingly, both applications were denied. Accordingly, in view of ERI's involvement in the filing of these false claims, the DOE determined that ERI will be required to provide additional documentation to support every application it files.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Anschutz Corporation	RF272-68171	03/13/92.
Apex Oil Co./Clark Oil/Steve's Clark Service et al	RF342-57	03/12/92.
Atlantic Richfield Company/H.W. Hair & Son et al	RF304-11361	03/09/92.
Atlantic Richfield Company/R&S Oil Co	RF304-9263	03/10/92.
R&S Oil Co	RF304-9264	
R&S Oil Co	RF304-9265	
R&S Oil Co	RF304-9266	
R&S Oil Co	RF304-9267	
R&S Oil Co	RF304-9268	
R&S Oil Co	RF304-9269	
Aviall of Texas, Inc	RF272-69338	03/12/92.
Complete Auto Transit, Inc	RF272-67215	03/12/92.
Empire Gas Corporation/Wal-Mart Stores, Inc. et al	RF335-59	03/09/92.
Gulf Oil Corporation/Warren Handley et al	RR300-24	03/12/92.
Meadows Realty Company/Dept. of Water & Power (Los Angeles)	RF327-5	03/13/92.
Quintana Energy Corp./Consolidated Edison Company of New York	RF332-7	03/12/92.
City Public Service of San Antonio	RR332-9	
Texaco Inc./Engel Dist. Co., Inc. et al	RF321-13193	03/10/92.
Texaco Inc./F.R. Myers Texaco	RF321-18497	03/09/92.
Texaco Inc./Hillcrest Texaco	RF321-18500	03/10/92.
Texaco Inc./Raymond T. Holstein et al	RF321-10010	03/12/92.
Texaco Inc./Town & River Texaco et al	RF321-9384	03/13/92.
Texas Eastern Transmission	RF272-25991	03/13/92.

Dismissals

The following submissions were dismissed:

Name	Case No.
Barr's Texaco	RF321-2664.
Boysen Texaco	RF321-5574.
Carlos Helander Texaco	RF321-5674.
Don's Texaco	RF321-5673.
Grant's Texaco	RF321-5893.
Greenwich Texaco	RF321-5676.
Hazard Service Station	RF300-12644.
Highline Service	RF321-5683.
Larry's	RF304-4060.
M&H Texaco	RF321-5670.
McCutcheon Texaco	RF321-5653.
Mt. Diablo Texaco Service	RF321-5692.
Ninety Six Texaco	RF321-5652.
Norton Company	RF272-60369.
Owen's Texaco	RF321-2957.
Philpot Texaco	RF321-5577.
Slattery Group, Inc	RF336-41.
Terrytown Texaco	RF321-5659.
Trimble's Texaco #1	RF321-1423.
Tuskegee Motor Co	RF321-1431.
Walter J. Colley	RF304-9119.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 17, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-10346 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of March 23 Through March 27, 1992

During the week of March 23 through March 27, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Energy Research Foundation, 3/27/92, LFA-0190

The Energy Research Foundation filed an Appeal from a determination issued by the Assistant Manager for Administration of the DOE's Savannah River Field Office (Savannah River) of a Request for Information submitted under the Freedom of Information Act (FOIA). In its determination, Savannah River withheld the names and social security numbers of two contractor employees contained in a contractor request for medical records to be used in a company mortality study. In considering the Appeal, the DOE noted that the individuals had died over a decade ago and found that Savannah River had not articulated a protectable privacy interest that justified withholding their names and social security numbers under Exemption 6 of the FOIA. The DOE also determined tat a second search for documents disclosed additional responsive records not

originally identified by Savannah River. Accordingly, the DOE granted the Appeal in part, and remanded the matter to Savannah River to either release the information and documents in question or issue a determination in accordance with the guidance in the Decision.

Gem City Packaging & Manufacturing, 3/24/92, LFA–0186

Gem City Packaging & Manufacturing filed a Freedom of Information Act (FOIA) Appeal of a determination issued by the DOE's Oak Ridge Field Office (DOE/OR). DOE/OR denied the FOIA request stating that the information sought was not an agency record and, moreover, no documents responsive to the request could be located. In considering the Appeal, the DOE found that the documents in question were the property of the contractor and not under the control of the DOE and, therefore, not agency records under the FOIA according to contract. Moreover, the DOE found that after an adequate search no documents responsive to the request could be located. Accordingly, the Appeal was denied.

James L. Schwab, 3/27/92, LFA–0192

James L. Schwab (Schwab) filed an Appeal from a determination issued by the DOE's Nevada Field Office (Nevada Office) in which the Nevada Office withheld certain personnel documents that Schwab requested in his Freedom of Information Act (FOIA) request. In considering the Appeal, the DOE found that some of the documents had been released, while the remaining documents were properly withheld under Exemption 6. The Appeal was, therefore, dismissed in part and denied in part.

Refund Applications

Exxon Corporation/Jim'S Exxon Station, 3/23/92, RF307–9439

The DOE issued a Decision and Order concerning an Application for Refund filed by Jim's Exxon Station (Jim's), a motor gasoline retailer located in Live Oak, California. Jim's sought a portion of the settlement fund obtained by the DOE as a result of a consent order entered into by Exxon Corporation. The DOE denied Jim's refund claim on the grounds that Jim's failed to demonstrate that the purchase volume estimates advanced by the firm were reasonable.

State Escrow Distribution, 3/25/92, RF302–13

The Office of Hearings and Appeals ordered the DOE's Office of the Controller to distribute $84,900,000 to the State Governments. Most of these funds were derived from a crude oil violation payment made by Texaco Inc. *See Texaco Inc.,* 19 DOE ¶ 85,200, *Modified,* 19 DOE ¶ 85,236 (1989). The use of the funds by the State is governed by the Stripper Well Settlement Agreement.

Texaco Inc./Tumwater Texado, 3/27/92, RR321–20

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed by A. J. Fieldman (Fieldman), owner of Tumwater Texaco (Tumwater), in the Texaco Inc. special refund proceeding. In a prior Decision, the DOE had denied two duplicate Applications for Refund filed on behalf of Tumwater because Fieldman had wrongly certified that he had not filed a duplicate application in the Texaco proceeding. In his Motion, Fieldman asserted that he had no intention of filing duplicate applications but merely completed all of the application forms which were sent to him because he thought that the DOE required all of the forms. In considering this Motion, the DOE found that Fieldman was confused by multiple requests that he complete application forms and that he did not intend to file duplicate applications. Consequently, the DOE granted his Motion. Because Tumwater was a reseller whose allocable share was less than $10,000, the DOE determined that it was eligible to receive its full allocable share. In this Decision, Tumwater was granted a refund of $2,089, representing $1,604 principal and $485 interest.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Perrine Oils.	RF304–2103	03/24/92
Exxon Corporation/ Jack's Exxon.	RF307–7009	03/27/92
St. Anne Enco	RF307–7096	.....
Floyd's Exxon	RF307–9405	.....
F.J. Boutell Driveway Company, Inc.	RF272–73136	03/25/92
Gulf Oil Corporation/ Braxton's Gulf et al.	RF300–13349	03/24/92
Gulf Oil Corporation/ Carolina Fuel Company.	RR300–59	03/27/92
John S. Causey Dist., Inc.	RR300–73	.....
Petroleum Products of So. GA., Inc.	RR300–77	.....
Gulf Oil Corporation/ Downey Oil Co., Inc. et al.	RF300–14064	03/27/92
Gulf Oil Corporation/ Ernie's store et al.	RF300–11514	03/24/92
Gulf Oil Corporation/ Vails & Way Company.	RR300–67	03/24/92
Don Gantt Oil Co	RR300–68	.....
Etheridge Oil Co	RR300–69	.....
Walker Oil Co	RR300–70	.....
Coy Jackson, Jr., Inc.	RR300–71	.....
Murphy Oil Corp./ Kelly's Market.	RF309–1283	03/23/92
Village Shop Food Store, Inc.	RF309–1405	.....
Shell Oil Company/ Juan Forteza Crespo.	RF315–9324	03/27/92
Solen Public School District #3 et al.	RF272–82501	03/25/92
Texaco Inc./Carroll Oil Co.	RF321–7272	03/25/92
R.G. Fresh LP Gas, Inc.	RF321–9264	.....
Texaco Inc./Coco's Texaco #1 et al.	RF321–10631	03/23/92
Texaco Inc./George Cremeans' Texaco et al.	RF321–12350	03/27/92
Texaco Inc./Sun West Oil Co., Inc. et al.	RF321–3101	03/25/92
Tom Inman Trucking, Inc.	RF272–21125	03/24/92
Tom Inman Trucking, Inc.	RD272–21125	.....
Village/Town of Mount Kisco.	RF272–90815	03/27/92
West Coast Oil Company/James Petroleum Corp.	RF328–4	03/25/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Brentwood Texaco	RF321–13391
Cooper's Gulf	RR300–106
Denison Oil Co	RF300–12941
Denison Oil Co	RF300–12942
Garden City Public Schools	RF272–57922
Gold & Sons, Inc	RF315–7001
Gold & Sons, Inc	RF315–7003
Habersham's Boat House, Inc	RF300–13518
Larry's Gulf	RR300–109
Lou Brocco's Gulf	RF300–12323
Michael J. Legros	RR300–14
Ocean Spray Cranberries, Inc	RF336–40
Sayers Trucking	RF272–66339
Star-Kist Foods, Inc	RF272–25303
Star-Kist Foods, Inc	RD272–25303
Williams Pipeline Company	RF272–69359
Woodland Gulf	RR300–126

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 27, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-10353 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Opportunity To File Comments and To Participate in a Hearing

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Opportunity to file comments and participate in a hearing.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces an opportunity to file comments and participate in a hearing for the purpose of determining the appropriate standard to be used in considering which products should be eligible for a refund in the DOE's crude oil overcharge refund proceeding.

DATES AND ADDRESSES: Comments must be filed on or before June 3, 1992, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Comments should indicate whether the filer has an interest in participating in a hearing on this issue. All comments should display a reference to Case Number RR272-88.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director or Virginia A. Lipton, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-2390 (Wieker), (202) 586-2400 (Lipton).

SUPPLEMENTARY INFORMATION:

Notice is hereby given of an opportunity to file comments and to participate in a hearing in connection with the DOE's crude oil overcharge refund proceeding currently being conducted by the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE). This proceeding takes place pursuant to 10 CFR part 205, subpart V and the DOE's Modified Statement of Restitutionary Policy, 6 Fed. Energy Guidelines ¶ 90,508A. To date, approximately $207.4 million in crude oil overcharge refunds has been distributed to claimants, and approximately $323.9 million remains in escrow to be distributed. The DOE expects to receive additional crude oil overcharge monies from cases in administrative and judicial litigation and from settlements of those cases. The purpose of receiving comments and convening a hearing is to assist the OHA in its consideration of which products should be eligible for a refund in the crude oil overcharge refund proceeding.

In general, OHA distribute crude oil refunds to purchasers of products refined from crude oil, because most of the overcharges were passed through by the class of refiners to their customers. OHA Report on Stripper Well Oil Overcharges, 6 Fed. Energy Guidelines ¶ 90,507. Claimants must have purchased those products during the period of petroleum price controls, beginning on August 19, 1973. Under what we had believed to be the correct standard, any product that was covered by the Emergency Petroleum Allocation Act (EPAA) of 1973 qualifies as a product that is eligible for a refund in this proceeding. We first attempted to articulate this EPAA-based standard 1988, in Hartsville Oil Mill, 17 DOE ¶ 85,110. At that early date, we had not envisioned the diversity of products that we would be asked to consider for a refund in the crude oil overcharge refund proceeding. We expected that, for the most part, refund applications would cover familiar products, such as motor gasoline, diesel fuel and heating oil. These products would clearly be covered under the EPAA standard.

However, a product not specifically named in the EPAA might be so similar to a named product, or be so clearly within the general category that an EPAA named product was intended to describe, that making it eligible for a refund is appropriate. In this regard, if a petroleum product is not specifically named as covered by the EPAA and it is not listed in regulations promulgated pursuant that Act, then the OHA has determined whether it was covered by the Act by referring to the manner in which the product was produced. Under current standards, a product that is primarily produced through refining crude oil in a crude oil refinery would generally be covered by the EPAA, and thus be eligible for a refund. Conversely, if a product is primarily produced by cracking or is primarily created in a petrochemical plant, OHA considers it not covered by the Statute.

Many applicants requesting crude oil overcharge refunds actually purchased products derived from crude oil, but not refined from crude oil. These products include refinery gas, resin oil, petroleum coke and many others. Recently, the OHA has begun to evaluate crude oil overcharge refund claims requesting refunds for these products and other, more esoteric products such as butyl cellosolve, polymer and solprene. Under current standards, these products would not be considered as covered by the EPAA, because they are not refined petroleum products.

There has been disagreement over the correct application of the current standard, and about precisely what our current standard includes. We recognize that the standard enunciated in Hartsville was imprecise and has caused confusion among claimants. Specifically, in that case we indicated that we would presume that any product regulated by the Agency during the period August 19, 1973 through January 27, 1981 period was covered by the EPAA.

We have experienced difficulties in applying that presumption because it is not infallible. Some products were regulated during the period August 19, 1973 through April 30, 1974, under the Economic Stabilization Act of 1970 (ESA), but coverage was discontinued by the EPAA. Under regulations issued under the ESA that were published in January 1974, covered product meant "a product described in the 1972 edition, Standard Industrial Classification Manual, Industry Code 1311, (except natural gas), 1321 or 2911" (SIC Codes). 39 FR 1924 (January 15, 1974). Later regulatory definitions of covered products that were promulgated under the EPAA were different. They named specific products and did not refer to SIC Codes. These later definitions excluded some products that were mentioned in the SIC codes. *E.g.*, 39 FR 12353 (April 5, 1974); 40 FR 2795 (January 16, 1975).

Moreover, we have not always adhered to the Hartsville standard ourselves. In the three instances in 1988, we granted refunds to applicants based on products that were regulated only under the ESA, and not under the EPAA. In those cases we relied on the earliest expression of the definition of covered products, which referred to the SIC Codes. The products involved were paraffin, road oil and microcrystalline wax, and the refunds approved for all three products totaled $6,766. See, Mack-Miller Candle, 17 DOE ¶ 85,740 (total refund amount at $.0008 per gallon was $1,570 for paraffin wax); Olmos Construction Co. et al., 17 DOE ¶ 85,640 (total refund granted at $.0008 per gallon to Town of Hadam based on purchases of road oil was $111); W&F Manufacturing, 18 DOE ¶ 85,231 (total refund amount at $.0008 per gallon based on purchases of microcrystalline wax was $5,085). Subsequently, we issued refunds in six additional cases relying on Olmos and W&F. Carlisle Cos., 21 DOE ¶ 85,901 (1991) (total refund $26,247); Nebraska Energy Office, 21 DOE ¶ 85,243, (1991) (total refund for road oil $224); King Industries, Inc., 21 DOE ¶ 85,276 (1991) (total refund $5,730);

Laclede Steel Company, 20 DOE ¶ 85,797 (1989) (combined refund for asphalt and road oil $41); Commonwealth of Kentucky, 19 DOE ¶ 85,520 (1989) (road oil refund to Washington State Department of Transportation $95,135); Williams County Highway Dept., 19 DOE ¶ 85,604 (1989) (road oil refund $261). These cases are thus inconsistent with the position taken in Hartsville, that only products covered by the EPAA were eligible for a refund.

We have granted many hundreds of refunds based on products which were covered both by the EPAA and the ESA, and we occasionally referred to regulations promulgated pursuant to both the ESA and the EPAA when approving some of those products for refunds. We have also on a number of occasions referred to SIC codes when considering refund claims. Some of our determinations also use as support prior cases that referred to the January 1974 regulations, which cited SIC codes. However, we know of only the nine instances cited above in which we actually granted refunds for products covered only by the ESA. Thus, of the $207.4 million in crude oil overcharge refunds approved to date, $134,409 has been granted based on products covered only the ESA.

Nevertheless, some applicants have argued that our EPAA standard has not been applied uniformly and that the standard is not clear. Others contend, based on the instances cited above, that we have effectively adopted a standard that permits all products covered by the ESA to be eligible for a refund. As still others correctly point out, oil overcharge monies have been received by the DOE in settlement of ESA-related alleged violations. They therefore contend that an ESA-based standard is appropriate.

The application of the product eligibility standard in crude oil overcharge refund cases affects many thousands of applicants and involves large sums of money. In view of the wide variety of products that have come under refund consideration, the fact that many more and different products will be presented to us, the confusion over our current standard, and our own inconsistencies, we believe that it will be useful to receive comments regarding the appropriate standard that we should use for considering crude oil overcharge refund claims. Accordingly, we invite interested persons and firms to present us with their views on this issue.

Commenters suggesting we should adopt a standard broader than the EPAA standard, such as for example, an ESA-based standard, should indicate specifically the scope of the standard proposed, why the proposed standard is more appropriate than an EPAA standard, and the legal authority for the OHA to adopt such a standard.

In this regard, there are some parties that have indicated that we must use an ESA-based standard because we have been calculating crude oil refunds by reference to the ESA. They claim that the denominator of our volumetric refund fraction, the factor indicating the total gallonage consumed during the 1973 through 1981 refund period. 2,020,997,335,000 gallons, includes products covered by the ESA, as well as the EPAA. Their claim regarding the derivation of the denominator is correct. This volume was based on surveys conducted by the DOE's Energy Information Administration, which in turn were based on SIC code classifications of establishments. We believe that the following calculation approximates how the 2 trillion-gallon figure was derived:

1973 .4166666 × 265,331,640,000 gals.	=	110,554,832,311
1974–80 total gallons	=	1,889,928,390,000
1981 .0833333 × 246,169,140,000 gals.	=	+20,514,086,794
Total gallons in control period		2,020,997,309,105

Some EPAA products were not included in this calculation: propane, butane and natural gasoline that were produced in natural gas plants, as well as heating oil and residual fuel that were imported. However, since the 2 trillion-gallon figure does include ESA products, this is certainly a factor that we will consider in making our determination as to the appropriate eligibility standard.

Further, inasmuch as ease and practicality of implementation are factors to be considered, commenters should indicate the additional products which would be covered by a broader standard, as well as what types of crude oil-related products would not be covered under that standard, and the basis for drawing those conclusions.

In this regard, we are aware that it will be more complex to implement an ESA standard. Under the EPAA, products that are specifically enumerated in the Act were subject to regulation, regardless of where the product is produced. For example, propane, whether produced at a refinery or at a natural gas plant, was covered by the EPAA. However, as stated above, the products regulated by the Agency under the authority of the ESA were listed in SIC codes 1311 (crude petroleum but not natural gas), 1321 (natural gas liquids) and 2911 (petroleum refining). Products listed in SIC code 2911 are likely to require careful scrutiny, since some of these products could also have been produced in a facility other than a refinery, such as in a petrochemical plant. Products not produced at a refinery would not have been covered under ESA-based regulations. Moreover, products could have been covered by multiple SIC codes. For example, when produced in a petroleum refinery, butadiene is covered under SIC code 2911, and therefore would be covered by ESA-based regulations. However, butadiene may also be produced from alcohol. In this case it would be covered under SIC code 2869 (Industrial Organic Chemicals) and not covered by the ESA regulations.

Therefore, if we adopt an ESA-based standard for refund purposes, we would need to determine the source of some products: *viz.*, a petroleum refinery, petrochemical plant or other establishment. We believe that the burden could reasonably be placed on the applicant to establish the source of the product for which it is claiming a refund. In this regard, presumptions might be adopted, *e.g.*, for applications involving only small amounts of ESA products that are captured in multiple SIC codes.

We solicit comments regarding the issue of the most efficient and fair method for evaluating claims for products that may be produced both in a refinery (SIC code 2911) and in other establishments. Commenters should also indicate the legal basis for their conclusion. Moreover, since it is conceivable that a more inclusive standard could reduce the size of the aggregate refund paid to each eligible firm below the sum of the levels established in the various crude oil refund implementation orders, commenters should also address this issue and indicate whether such a result is warranted.

Adoption of an ESA-based standard presents another important concern. Products covered only by Agency regulations promulgated pursuant to the ESA were controlled only for a period of eight months. On the other hand, some of the major products covered by the EPAA, such as motor gasoline and propane, were controlled for the full 7.44-year duration of the petroleum price control program. Thus, we must consider whether to take into account the length of time that ESA products were controlled in making a final determination upon our eligibility standard. We therefore solicit comments regarding the issue of whether products covered only by the ESA and not by the EPAA should receive refunds for the entire August 19, 1973 through 1981 period, or for the period August 19, 1973

through April 30, 1974, the date when the ESA expired, or for some other relevant period, and the bases for the recommended action.

Commenters arguing that we should adhere to the EPAA standard or adopt a more restrictive standard should indicate the legal and factual foundation for this approach, which types of products they believe are eligible under their proposed standard, which types products are not eligible, and the basis for these conclusions. They should also indicate why they believe it is appropriate to make crude oil overcharge refunds available to a more limited range of applicants. Feasibility of implementation should also be discussed.

Comments must be filed within 30 days of the date of publication of this Notice in the **Federal Register**. The comments should state whether the filer is interested in participating in a hearing regarding this issue. If sufficient interest is expressed by commenters in participating in a hearing, one will be scheduled approximately 45 days after comments are due.

Dated: April 24, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-10345 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC).

Date and Time:

May 18, 1992—9 a.m.–5 p.m.;
May 19, 1992—8:30 a.m.–4:30 p.m.

Place: Brookhaven National Laboratory, Chemistry Building 555, room 300, 33 Lewis Road, Upton, New York 11973.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER-10), Office of Energy Research, Washington, DC 20585, Telephone: 301-903-3081.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy (DOE) on the many complex scientific and technical issues that arise in the planning, management, and implementation of the research program for the Office of Basic Energy Sciences (BES).

Tentative Agenda: Briefings and discussions of:

May 18, 1992

- Status of BES Program
- Brookhaven Research Briefings
- Brookhaven Facility Briefings
- Public Comment (10 Minute Rule)

May 19, 1992

- Brookhaven Research Briefings
- Brookhaven Facility Briefings
- BESAC Review Schedule
- Public Comment (10 Minute Rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 29, 1992.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 92-10350 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

Fusion Energy Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Fusion Energy Advisory Committee (FEAC).

Date and Time:

Tuesday, May 19, 1992—1:30 p.m.–5 p.m.;
Wednesday, May 20, 1992—8:30 p.m.–5:30 p.m.;
Thursday, May 21, 1992—8:30 p.m.–5 p.m.

Place: Sunset Canyon Recreation Center and Morgan Center, Press Room, Bruin Walk, University of California, Los Angeles, Los Angeles, California 90024.

Contact: Deborah Lonsdale, U.S. Department of Energy, GTN, Office of Fusion Energy (ER-50), Office of Energy Research, Washington, DC 20585, Telephone: 301-903-4941.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy on the complex scientific and technical issues that arise in the planning, management, and implementation of its Fusion Energy Program.

Tentative Agenda:

Tuesday, May 19, 1992

- Update on Steady State Advanced Tokamak (SSAT)
- Presentation on Management Structure for SSAT
- Public Comment (10-minute Rule)

Wednesday, May 20, 1992

- Report from Panel III on Concept Improvement
- Discussion of Panel III Report on Concept Improvement
- Public Comment (10-minute Rule)

Thursday, May 21, 1992

- New Charge to FEAC
- FEAC Deliberations

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Deborah Lonsdale at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 29, 1992.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 92-10351 Filed 5-1-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-400067; FRL-4061-9]

Emergency Planning and Community Right-to-Know; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a 1-day public meeting to discuss the potential expansions of the list of chemicals and industries covered by section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). In connection with this meeting the Agency has prepared an issues paper that will be available at no charge through the address or telephone number given under FOR FURTHER INFORMATION CONTACT.

DATES: The meeting will take place on Friday, May 29, 1992, at 9 a.m. and adjourn by 3 p.m.

ADDRESSES: The meeting will be held at the: Environmental Protection Agency, Auditorium, Education Center, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Samuel K. Sasnett, Director, Toxic Release Inventory Management Staff, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M St., SW., Washington, DC 20460, Toll Free: 1-800-535-0202, Washington, DC and Alaska (703) 920-9877, ATTENTION: Docket No. 400067.

SUPPLEMENTARY INFORMATION: In 1986, Congress enacted the Emergency Planning and Community Right-To-Know Act (EPCRA). Section 313 of EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment. The purpose of this requirement is to inform the public and government officials about releases of specified toxic chemicals.

Over 300 individual chemicals and 20 chemical categories are currently included on the list of toxic substances under EPCRA section 313. A number of chemicals currently covered under other environmental laws are not reportable under EPCRA section 313. Thus, the public does not have access to information about releases and transfers of toxic chemicals not listed on EPCRA section 313.

Section 313(d) authorizes the Administrator to add at any time a chemical to the EPCRA section 313 list of toxic chemicals. EPA has screened over 600 chemicals, many of which are included under other environmental statutes, to determine if they meet the statutory criteria for addition to the EPCRA section 313 list of toxic chemicals.

Under section 313 of EPCRA, only manufacturing facilities in Standard Industrial Classification (SIC) codes 20 through 39 are required to report annually releases and transfers of listed toxic chemicals. Data indicate the potential of significant chemical activity occurring in facilities outside SIC codes 20 through 39. The public does not have access to information about releases and transfers of toxic chemicals from these facilities because they are not currently subject to the reporting requirements of section 313.

EPCRA section 313 authorizes the Administrator to add SIC codes to EPCRA section 313, provided that each SIC code is relevant to the purposes of the statute. EPA has screened industries outside the manufacturing sector to determine if they meet the EPA's criteria for addition to EPCRA section 313.

The tentative agenda for this public meeting will include a presentation of the toxicity criteria used to screen chemicals to determine if they meet the statutory criteria of EPCRA section 313, the results of the chemical screening, the draft criteria for identifying additional industries, and the analyses conducted thus far on the releases and transfers of toxic chemicals by facilities outside SIC codes 20 through 39.

EPA has developed a paper that discusses the issues for expansion of coverage of both toxic chemicals and industries under EPCRA section 313, with supporting analyses. Copies of this issue paper will be available to the public on or after Friday, May 15, 1992. Scheduling of oral statements will be on a first come first served basis by calling the number listed under FOR FURTHER INFORMATION CONTACT. All statements will be made part of the public record and will be considered in the development of any proposed rule amendment.

Dated: April 27, 1992.

Mark A. Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-10333 Filed 5-1-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-00318; FRL-4059-1]

State FIFRA Issues Research and Evaluation Group (SFIREG); Working Committee on Groundwater Protection and Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Groundwater Protection and Pesticide Disposal will hold a 2-day meeting, beginning on May 11, 1992, and ending on May 12, 1992. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG Working Committee will meet on Monday, May 11, 1992, from 8:30 a.m. to 5 p.m., and on Tuesday, May 12, 1991, beginning at 8:30 a.m. and adjourning at approximately 1 p.m.

ADDRESSES: The meeting will be held at: Doubletree Hotel, 300 Army-Navy Drive, Arlington, VA, (703) 892-4100.

FOR FURTHER INFORMATION CONTACT: By mail: Arty Williams, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: room 1105B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: (703) 305-7371.

SUPPLEMENTARY INFORMATION: The tentative agenda includes the following:

1. Discussion of priorities for phase 3 of the disposal regulations.
2. Discussion of "Basis for Assessment and Planning" State Management Plan component.
3. Status of Pesticides and Ground Water Strategy support documents.
4. Status of Comprehensive State Ground Water Protection Program Guidance.
5. Ground water protection issues related to "Amber".
6. State reports on initiatives related to ground water protection and pesticide disposal.
7. Other topics as appropriate.

Dated: April 28, 1992.

Douglas D. Campt,

Director Office of Pesticide Programs.

[FR Doc. 92-10335 Filed 5-1-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59937; FRL 4063-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section

5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 21 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-111, 92-112, 92-113, 92-114, 92-115, 92-116, 92-117, 92-118, 92-119, 92-120, 92-121, 92-122, 92-123, April 20, 1992.

Y 92-124, April 27, 1992.

Y 92-125, April 26, 1992.

Y 92-126, 92-127, May 3, 1992.

Y 92-128, 92-129, 92-130, May 4, 1992.

Y 92-131, May 6, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-111

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-112

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-113

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-114

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-115

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-116

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-117

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; theic; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-118

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-119

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-120

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-121

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-122

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-123

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-124

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; cyanuric acid; isophthalic acid; glycerine; 2-methyl-1,3-propanediol; trimellitic anhydride; methylene dianiline.

Use/Production. (S) Magnet wire enamel. Prod. range: 250,000 kg/yr.

Y 92-125

Importer. Confidential.

Chemical. (G) Silicone-acrylic.

Use/Import. (S) Impact modifier for PVC resin. Import range: Confidential.

Y 92-126

Importer. Confidential.

Chemical. (G) Homopolymer, benzoic acid derivative.

Use/Import. (G) Seal bearing. Import range: Confidential.

Y 92-127

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic copolymer.

Use/Production. (G) Component used in coatings. Prod. range: Confidential.

Y 92-128

Manufacturer. Avery Chemical Division.

Chemical. (G) Non-volatile vinyl acrylate polymer.

Use/Production. (S) Pressure sensitive adhesive. Prod. range: Confidential.

Y 92-129

Manufacturer. Avery Chemical Division.

Chemical. (G) Non-volatile vinyl acrylic copolymer.

Use/Production. (S) Pressure sensitive adhesive. Prod. range: Confidential.

Y 92-130

Manufacturer. Henkel Corporation, Emery Group.

Chemical. (S) Adipic acid and phthalic anhydride, polymer with propylene glycol-, hydrogenated coco fatty acid and 2-ethyl hexanol ester.

Y 92-131

Importer. Confidential.

Chemical. (G) Saturated copolyester resin.

Use/Import. (G) Binder resin for toner manufacture. Import range: Confidential.

Dated: April 28, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-10334 Filed 5-1-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

[Docket No. 92-18]

Pacific Motif, Inc. v. Asia North America Eastbound Rate Agreement; Filing and Consolidation of Complaint and Assignment

Notice is given that a complaint filed by Pacific Motif, Inc. ("Complainant") against Asia North America Eastbound Rate Agreement ("Respondent") was served April 27, 1992. Complainant alleges that Respondent engaged in violations of sections 10(b), (6), (10), (11) and (12) of the Shipping Act of 1984 ("Act"), 46 U.S.C. app. 1709(b), (6), (10), (11) and (12), by entering into an invalid service contract without any meaningful service commitment, by attempting to collect deadfreight penalties for a shortfall caused by Respondent's conduct, and through its members filing independent action tariffs for rates lower than agreed upon in the service contract. Pursuant to Rule 148, 46 CFR 502.148, at the request of Complainant, the complaint is consolidated with the complaints in Docket Numbers 92-06, 92-07 and 92-17, because it involves substantially the same issues as these dockets.

This proceeding has been assigned to Administrative Law Judge Frederick M. Dolan, Jr. ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by April 22, 1993, and the final decision of the Commission shall be issued by August 20, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 92-10279 Filed 5-1-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 041392 AND 042492

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Federal Express Corporation, UAL Corporation, Air Wisconsin, Inc.	92-0715	04/13/92
The Christian Broadcasting Network, Inc., Robertson Charitable Remainder Unitrust, International Family Entertainment, Inc.	92-0765	04/13/92
Michigan National Corporation, H.F. Holdings, Inc., HonFed Bank	92-0792	04/13/92
MTD Products Inc., Shafer Valve Company, Shafer Valve Company	92-0816	04/13/92
Bass plc, Grosvenor Sutter Associates, Holiday Inn Union Square	92-0818	04/13/92
Main St. & Main, Inc., Nestle S.A., Nestle Food Company	92-0825	04/13/92
Lanxide Corporation, Alcan Aluminum Limited, Alanx Holding, Inc.	92-0805	04/14/92
Alcan Aluminum Limited, Lanxide Corporation, Lanxide Corporation	92-0806	04/14/92
McLaren Health Care Corporation, Lapeer Health Services Corporation, Lapeer Regional Hospital	92-0740	04/17/92
PepsiCo, Inc., Arturo G. Torres, Pizza Management Inc.	92-0759	04/17/92
Henry Hsu and Amy Hsu, Security Pacific Corporation, Algonquin Investment Co.	92-0815	04/17/92
IVonyx Group Services, Inc., COH-CARE, d/b/a Children's Health Care System, 4800 Corporation d/b/a Home Health Care of Washington	92-0817	04/17/92
Welsh, Carson, Anderson & Stowe, V, L.P., Flowers Hospital, Inc., Flowers Hospital, Inc.	92-0832	04/17/92
The Cooper Companies, Inc., Nu-Med, Inc., Hospital Group of America, Inc.	92-0836	04/17/92
Honeywell Inc., Digital Equipment Corporation, Digital Equipment Corporation	92-0718	04/20/92
Anheuser-Busch Companies, Inc., George M. Phillips, Condor Corporation and Vesper Corporation	92-0831	04/20/92
Fiskars Oy ab, HM Acquisition Partners, Melnor Industries, Inc.	92-0769	04/21/92
Solvay S.A., Laporte plc, Laporte America Holdings Inc.	92-0812	04/21/92

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 041392 AND 042492—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Valero Energy Corporation, Oryx Energy Company, Sun Operating Limited Partnership and Oryx Gas	92-0761	04/23/92
ComputerLand Corporation, Infomax, Inc., Infomax, Inc.	92-0822	04/23/92
Devon Energy Corporation, Lonrho PLC, Hondo Oil and Gas Company	92-0829	04/23/92
Victor K. Kiam, II, Newco, Newco	92-0834	04/23/92
Joseph Littlejohn & Levy Fund, L.P., Newco, Newco	92-0835	04/23/92
Marvin M. Schwan, Chicago Bros., Chicago Bros.	92-0845	04/23/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-10322 Filed 5-1-92; 8:45 am]

BILLING CODE 6750-01-M

[Docket 9248]

Diran M. Seropian, M.D.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Florida physician from conspiring with the medical staff of Broward General Medical Center to prevent competition from physicians of the Cleveland Clinic Florida, a non-profit provider of health care services, or any other provider of health care services.

DATES: Comments must be received on or before July 6, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Mark Horoschak, FTC/S-3115, Washington, DC 20580. (202) 326-2756.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The agreement herein, by and between Diran M. Seropian, M.D., hereafter sometimes referred to as respondent, and his attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent, Diran M. Seropian, M.D., is a physician licensed by the State of Florida, who practices in Broward County, Florida, and maintains a professional office at 1414 SE. 3d Avenue, Fort Lauderdale, FL 33316.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging him with violation of section 5 of the Federal Trade Commission Act, and has filed an answer to said complaint, denying said charges.

3. Respondent waives all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All right to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto will be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. He understands that once the order becomes final, he will be required to file one or more compliance reports showing that he has fully complied with the order. Respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered That for purposes of this order, the following definitions shall apply:

A. "Medical Staff" means the Medical Staff of Broward General Medical Center, its successors, assigns, officers, directors, committees, agents, employees, and representatives.

B. "NBHD" means the North Broward Hospital District, a tax supported entity with its principle offices located at 1625 Southeast Third Avenue, Fort Lauderdale, FL 33316, the hospitals that are owned by the North Broward Hospital District, and its subsidiaries, affiliates, successors, assigns, officers, administrators, directors, committees, agents, employees, and representatives.

C. "Broward General" means the Broward General Medical Center, one of the hospitals of the North Broward Hospital District, located at 1600 South Andrews Avenue, Fort Lauderdale, FL 33316, its subsidiaries, affiliates, successors, assigns, officers, administrators, directors, committees, agents, employees, and representatives.

D. "CCF" means Cleveland Clinic Florida, a nonprofit corporation organized under Florida law, located at 3000 West Cypress Creek Road, Ft. Lauderdale, FL 33309, its parent foundation (Cleveland Clinic Foundation, which is located at 9500 Euclid Avenue, Cleveland, OH 44195), any entity located in Florida that is owned, controlled or under the management of Cleveland Clinic Florida or Cleveland Clinic Foundation, and its successors, assigns, officers, directors, committees, agents, employees, and representatives of Cleveland Clinic Florida or Cleveland Clinic Foundation.

E. "Corrective action" means action taken pursuant to and in conformance with the Medical Staff's bylaws against any person with hospital privileges at Broward General whose activities or professional conduct is reasonably believed to be detrimental to patient safety or the delivery of quality patient care.

II.

It is further ordered That respondent directly or indirectly, or through any device, in connection with activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from entering into, attempting to enter into, organizing, continuing, or acting in furtherance of any agreement or combination, express or implied, between or among the Medical Staff or its members or with other physicians, providers of health care services, medical societies, hospitals, or medical staffs, for the purpose or with the effect of preventing or restricting the offering or delivery of health care services by the NBHD, Broward General, CCF, any CCF physician, or any other provider of health care services, including any agreement to:

A. Refuse to deal or threaten to refuse to deal with the NBHD, Broward General, CCF, any CCF physician, or any other provider of health care services, including, but not limited to, any agreement or combination to refuse or threaten to refuse to:

1. Participate in any Medical Staff or NBHD committee, admit any patient to any NBHD hospital, fulfill any Medical Staff obligation imposed or recognized under any provision of the Florida statutes, the Code of the NBHD, the By-laws or Rules and Regulations of the Medical Staff, or fulfill any other function customarily performed by the Medical Staff;

2. Refer patients to, accept patient referrals from, provide back-up for, or consult in the treatment of any patient with, any CCF physician; or

3. Associate with NBHD or CCF as an employee or independent contractor, or otherwise deal with NBHD, CCF or any CCF physician.

B. Deny, impede, or refuse to consider any application for hospital privileges or for changes in hospital privileges by any person solely because of his or her affiliation with CCF.

C. Deny or recommend to deny, limit, or otherwise restrict hospital privileges for any CCF physician without a reasonable basis for concluding that the denial, limitation, or restriction serves the interests of the hospital in providing for the efficient and competent delivery of health care services.

D. Discriminate, or threaten to discriminate, against any CCF physician with hospital privileges at Broward General with respect to the rights accorded to a member of the Medical Staff.

E. Encourage, advise, pressure, induce, or attempt to induce any person to engage in any action prohibited by this order.

III.

A. *It is further ordered* That this order shall not be construed to prohibit the respondent from engaging, pursuant to the Medical Staff's bylaws, in credentialing, corrective action, utilization review, quality assurance, or peer review at Broward General, where such conduct neither constitutes nor is part of any agreement, combination or conspiracy the purpose, effect or likely effect of which is to impede competition unreasonably.

B. *It is further ordered* That this order shall not be construed to prohibit respondent from entering into an agreement or combination with any other physician or health care practitioner with whom he practices in partnership or in a professional corporation, or who is employed by the same person as respondent.

C. *It is further ordered* That this order shall not be construed to prohibit the respondent from lawfully carrying on his private medical practice and providing patient care at Broward General or otherwise prohibit the respondent from unilaterally exercising his professional judgment in connection with the making or receiving of patient referrals to and from other physicians.

IV.

It is further ordered That respondent shall:

A. Within thirty (30) days after this order becomes final, mail a copy of this order to the Chairman of the Board of the NBHD and to each member of the Medical Council of the Medical Staff of BGMC.

B. Within sixty (60) days after this order becomes final, and at any time the Commission, by written notice, may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which respondent complied with this order and intends to comply with this order.

C. For a period of three (3) years after this order becomes final, respondent shall promptly notify the Commission: (1) of any change in his business address; and (2) whenever he enters into any new business, employment, or hospital affiliation that involves the provision of medical care. Each such notice shall include the respondent's new business address, hospital affiliation, a statement of the nature of the business or employment in which respondent is newly engaged, and a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

Diran M. Seropian, M.D. Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, the agreement to a proposed consent order from Diran M. Seropian, M.D., a physician practicing medicine in Fort Lauderdale, Florida. The agreement

would settle charges by Federal Trade Commission that the respondent violated section 5 of the Federal Trade Commission Act by conspiring to prevent, delay, and limit competition from the Cleveland Clinic Foundation ("Cleveland Clinic"), through the use of boycott threats and other anticompetitive practices.

The proposed consent order has been placed on the public record for sixty days for reception of comments by interested persons. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint, issued by the Commission on June 12, 1991, alleges that the Cleveland Clinic Florida ("CCF"), which is an affiliate of the Cleveland Clinic Foundation located in Cleveland, Ohio, provides comprehensive health care services to patients. CCF, which is located in Fort Lauderdale, Florida, operates a multi-specialty group medical practice that provides consumers an alternative to traditional individual and single specialty group forms of practice. Under CCF's multi-specialty group practice format, patients can obtain all necessary specialized medical care and ancillary services from CCF employees, including salaried physicians.

The complaint alleges that as early as September 1985, respondent and the Medical Staff of the Broward General Medical Center ("Broward General") had formally resolved: (a) To demand that the North Broward Hospital District ("NBHD"), which owns and operates Broward General, "immediately cease all negotiations with the Cleveland Clinic"; and (b) that the Broward General Medical Staff ("Medical Staff") had "no confidence" in Broward General's administration or the NBHD Board because of their negotiations with the Cleveland Clinic. The resolutions were intended as, and were understood by NBHD officials to be, threats that the Medical Staff's members would withhold patient admissions from Broward General if NBHD entered into an affiliation with the Cleveland Clinic.

The complaint further alleges that from January 1988 to October 1989, respondent and the Medical Staff engaged in, among other things, the following concerted acts and practices:

A. Soliciting physicians on the Medical Staff to join in a combination or conspiracy to threaten to withhold patient admissions from Broward General if the NBHD established a business relationship with CCF or supported CCF's application for a certificate of need to build its own hospital in Broward County;

B. Threatening to boycott Broward General by representing to the NBHD that doctors would act jointly to withhold patient admissions from Broward General if the NBHD approved the hospital privilege applications of CCF physicians;

C. Threatening Broward General that all Medical Staff officers would refuse to provide their services to Broward General, and threatening to have the Medical Staff cease to perform its functions, if the NBHD took steps to provide CCF physicians with access to Broward General's facilities; and

D. Refusing to process applications of CCF physicians for hospital privileges, and obstructing the NBHD's attempt to have an independent panel of Medical Staff physicians review the hospital privilege applications of CCF physicians.

The complaint alleges that the acts and practices described above were undertaken as part of a combination or conspiracy by and among the respondent, the Medical Staff, and others to prevent, delay, and limit competition from CCF in northern Broward County through the use of boycott threats and other coercive means. The combination was directed at restricting competition in northern Broward County from (1) CCF, (2) CCF physicians, and (3) any joint venture or affiliation between CCF and Broward General.

The complaint further alleges that respondent's actions have injured consumers in northern Broward County, by, among other things, depriving consumers of the price and quality benefits of competition between CCF's integrated multi-specialty group practice and independent fee-for-service practitioners, and hindering CCF's ability to offer health care services to consumers by raising its costs, reducing its efficiency, and delaying or preventing CCF from offering specialty and subspecialty services.

The Proposed Consent Order

The proposed consent order would prohibit respondent from entering into, or attempting to enter into, any agreement or combination to refuse to deal or threaten to refuse to deal with Broward General, CCF, any CCF physician, or any other provider of health care services for the purpose or with the effect of preventing or restricting the offering or delivery of health care services.

The consent order specifically would prohibit respondent from entering into any agreement to:

(1) Refuse to deal or threaten to refuse to deal with the NBHD, Broward General, CCF, any CCF physician, or any other provider of health care services;

(2) Deny, impede, or refuse to consider any application for hospital privileges or for changes in hospital privileges by any person solely because of his or her affiliation with CCF;

(3) Deny or recommend to deny, limit, or otherwise restrict hospital privileges for any CCF physician without a reasonable basis for concluding that the denial, limitation, or restriction serves the interests of Broward General in providing for the efficient and competent delivery of health care services;

(4) Discriminate, or threaten to discriminate, against any CCF physician with hospital privileges at Broward General with respect to the rights accorded to a member of the Medical Staff; and

(5) Encourage, advise, pressure, induce, or attempt to induce any person to engage in any action prohibited by the order.

The proposed order would not prohibit the respondent from engaging, pursuant to the Medical Staff's bylaws, in credentialing, corrective action, utilization review, quality assurance, or peer review at Broward General, where such conduct is not part of any agreement to impede competition unreasonably. The proposed order further would not prohibit respondent from entering into agreements with physicians with whom he may practice as partners, in professional corporations, or as employees of the same person, or prohibit respondent from lawfully carrying on his private medical practice and unilaterally exercising his professional judgment in connection with making or receiving patient referrals to and from other physicians.

The order also would require respondent to mail copies of the complaint and order to the Chairman of the Board of the NBHD and to each member of the Medical Council of the Medical Staff of Broward General.

Finally, the order requires respondent to: (1) File compliance reports with the Commission; and (2) promptly notify the Commission of any change in his business address and whenever he enters into any new business, employment, or hospital affiliation that involves the provision of medical care.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order or to modify its terms in any way.

The proposed order was entered into for settlement purposes only and does not constitute an admission by the proposed respondent that the law has been violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 92–10323 Filed 5–1–92; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates:

1 p.m.–5 p.m., June 2, 1992.
9 p.m.–5 p.m., June 3, 1992.
9 p.m.–1 p.m., June 4, 1992.

Place: Room 703A–729A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Committee to consider reports from each NCVHS subcommittee; to receive reports from NCHS, the Health Care Financing Administration, and the Agency for Health Care Policy and Research; and to address new business as appropriate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: April 28, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–10298 Filed 5–1–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92F-0162]

Asahi Denka Kogyo K. K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K. K. has filed a petition proposing that the food additive regulations be amended to expand the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate (CAS Reg. No. 85209-91-2) as a clarifying agent in polypropylene articles intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B4300) has been filed by Asahi Denka Kogyo K. K., c/o 1002 Pennsylvania Ave. SE., Washington, DC 20003. The petition proposes to amend the food additive regulations in § 178.3295 **Clarifying agents for polymers** (21 CFR 178.3295) to expand the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate (CAS Reg. No. 85209-91-2) as a clarifying agent in polypropylene articles intended for contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 23, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92–10305 Filed 5–1–92; 8:45 a.m.]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Reinstatement to Former Status for the Mechoopda Indian Tribe of the Chico Rancheria of Chico, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Federal government has settled litigation reinstating the status and rights of Indians of the Mechoopda Indian Tribe of the Chico Rancheria with which the Federal government had terminated its relationship. Effective April 17, 1992, the Indians of the Mechoopda Indian Tribe of the Chico Rancheria, of Chico, California, were reinstated to the status they had before termination. The tribe and its members are eligible for all rights and benefits to other federally recognized Indian tribes and their members.

DATES: Effective April 17, 1992.

ADDRESSES: The tribe is under the operational jurisdiction of the Superintendent, Central California Agency, Bureau of Indian Affairs, 1824 Tribute Road, suite J, Sacramento, CA 95815–4308, telephone (916) 978–4337; and the Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, CA 95825–1884, telephone (916) 978–4691.

FOR FURTHER INFORMATION CONTACT: Harold M. Brafford, Superintendent, Central California Agency, or Ronald Jaeger, Director, Sacramento Area Office, at the addresses listed above; or William Wirtz, Esq., Office of the Regional Solicitor, Pacific Southwest Region, 2800 Cottage Way, room E–2753, Sacramento, CA 95825–1890, telephone (916) 978–4824; or Scott Keep, Assistant Solicitor, Branch of Tribal Government & Alaska, Division of Indian Affairs, Office of the Solicitor, Mail Stop 6456, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240, telephone (202) 208–5134.

SUPPLEMENTAL INFORMATION: Pursuant to the authority in the Act of August 18, 1958, Public Law 85–671, 72 Stat. 619, as amended by the Act of August 11, 1964, Public Law 88–419, 78 Stat. 390 ("the Rancheria Act"), the Federal government terminated its relationship with many California Indian rancherias, including the Mechoopda Indian Tribe of the Chico Rancheria, and distributed the assets of the rancherias pursuant to plans adopted by the Indians. The Indians of the Mechoopda Indian Tribe of the Chico Rancheria and three other

rancherias, brought suit against the United States alleging that the termination was unlawfully done because the United States had not taken all actions required by the Rancheria Act prior to the purported termination. They sought reinstatement of the status they had individually and collectively enjoyed prior to the termination and certain other relief. A settlement of the litigation was negotiated which recognizes that the distributees of the rancheria assets are eligible for all rights and benefits extended to Indians under Federal law and that the tribes or communities of the rancherias and their members are eligible for all rights and benefits extended to other federally recognized Indian tribes and their members. See Order for Entry of Judgment and Judgment, April 17, 1992, in *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria, et al.* v. *United States*, No. C–86–3660 WWS, N. D. California.

Dated: April 27, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–10360 Filed 5–1–1992; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[OR–030–02–4333–14; G2–208]

Temporary Closure of Certain Public Lands in Baker County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure of public land in the vicinity of the National Historic Oregon Trail Interpretive Center at Flagstaff Hill.

SUMMARY: Notice is hereby given that under the authority of 43 CFR 8364.1, certain public lands are closed to public use and access from 0001 hours, May 22, 1992, until 2400 hours, May 25, 1992. The public land closed are all public lands lying within WM, T. 8 S., R. 41 E., sections 28, 29, 32, 33, 34; T. 9 S., R. 41 E., sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 12 , 13, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 34, 35, 36; T. 9 S., R. 42 E., sections 30, 31; T. 10 S., R. 41 E., sections 1, 2, 3, 11, 12, 13, 14, 15; T. 10 S., R. 42 E., sections 7, 8, 18. A map of the closure area may be viewed at the Baker Resource Area Office, 1550 Dewey, Baker City, Oregon.

The purpose of this closure is to provide safety and security for the public, dignitaries, even, and facilities at the National Historic Oregon Trail Interpretive Center at Flagstaff Hill and along the Oregon Trail route during the Grand Opening of the Interpretive Center.

The public lands listed above are closed to any entry and use including camping, hiking, shooting, and vehicular use. No person may use, drive, move, transport, let stand, park or have charge or control over any type of motorized or mechanical vehicle within the closure area. All major access routes into the area will be posted.

Exemptions to this order are granded to the following: Persons participating in or attending authorizing Grand Opening activities.

Law enforcement and other emergency service personnel performing official duties.

Employees of the Bureau of Land Management performing official duties.

Holders of valid permits, leases, claims, right-of-way, and other authorizations and their employees in the course of duties associated with the authorization.

Owners of private land within the closure area crossing public land to reach their land.

Violations of this order are punishable by fine not to exceed $1,000 and/or imprisonment not to access 12 months.

FOR FURTHER INFORMATION CONTACT: Jack Albright, BLM Baker Resource Area, P.O. Pox 987, Baker City, Oregon 97814, 503–523–6391.

Jack D. Albright,

Area Manager.

[FR Doc. 92–10268 Filed 5–1–92; 8:45 am]

BILLING CODE 4310–33–M

[CO–030–02–4410–13–1784]

Montrose District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR subpart 1784 that a meeting of the Montrose District Advisory Council will be held on Wednesday, May 20, 1992, in Gunnison, Colorado.

DATES: The meeting is scheduled for May 20, 1992.

ADDRESSES: For further information, contact Roger Alexander, Bureau of Land Management (BLM), Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401; Telephone (303) 249–7791.

SUPPLEMENTARY INFORMATION: The meeting is scheduled to begin at 9 a.m., Wednesday, May 20, 1992, at the Gunnison County Electric Association Office, 37250 West Highway 50, Gunnison, Colorado. Agenda items will include the following:

(1) Election of Officers.
(2) District Manager's Remarks.
(3) Resource Area Status Reports.
(4) Livestock Grazing/Riparian Area Management.
(5) Field Tour.

The District Advisory Council Meeting is open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Any person wishing to make an oral statement must notify the District Manager, 2465 South Townsend Avenue, Montrose, Colorado 81401, by close of business May 18, 1992. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes for the Council meeting will be maintained in the Montrose District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: April 24, 1992.

Alan L. Kesterke,

District Manager.

[FR Doc. 92–10304 Filed 5–1–92; 8:45 am]

BILLING CODE 4310–JB–M

[AK–050–02–4331–12]

Modifications of Alaska Off-Road Vehicle Designations; Tangle Lakes National Register Archaeological District, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice on off-road vehicle decision.

SUMMARY: This notice is provided in reference to the use of off-road vehicles on public lands within the Glennallen District, Alaska, in accordance with authority and requirements of Executive Order's (EO) 11644 and 11989 and the regulations contained in 43 CFR part 8340. The following described lands under the administration of the Bureau of Land Management are designated open, limited use, or closed to off-road motorized vehicle (ORV) use. This modifies an earlier notice, published July 6, 1984. This order will be effective upon publication and remain in effect until rescinded and/or modified by the District Manager, Glennallen District.

A 466,000-acre area is affected by the designations, known as the Tangle

Lakes National Register Archaeological District. This area is located in South Central Alaska, within the Clearwater Geographic Reference Unit. Notice was given in the July 6, 1984 FR on designation of 10 ORV trails. At that time the notice stated the designations were final and would remain in effect until further evaluation and/or adjustments of the National Register Boundary occurred. Through the existing Memorandum of Agreement concerning ORV management strategies, the Glennallen District has consulted with the Alaska State Historic Preservation Officer and concurrence has been given regarding the reopening of previously closed or partially closed trails assuring compliance with the National Historic Preservation Act of 1966, as amended.

A. Limited Designations

1. Limited Season of Use—166,000 Acres

The Tangle Lakes National Register Archaeological District is located west of Paxson, Alaska along the Denali Highway from mileposts 15 to 45. The area is open to motorized vehicle use from October 16 to May 15. Motorized vehicle use is limited to designated trails from May 16 to October 15, to protect historic properties.

2. Use Limited to Designated Roads and Trails

Motorized vehicle use in this area is permitted on designated roads and trails which are identified on maps which are available at the Glennallen District Office and by signs posted at major access points.

The following roads and trails are designated and open for motorized vehicle use, in accordance with item 1 above. All trails originate at the Denali Highway, with the exceptions of trails 9, 10 and 11.

1. Maclaren River Road, west of the Maclaren River (MP 43.5).
2. Sevenmile Lake Trail, Boulder Creek to Sevenmile Lake (MP40).
3. Maclaren Summit Trail, at the Maclaren Summit, 4,086 ft. elevation (MP 37).
4. Osar Lake Trail, south to vicinity of Osar Lake (MP 37).
5. Glacier Lake Trail, north to Glacier Lake (MP 30).
6. Landmark Gap Trail South, south with a southwest branch extending to an area north of Osar Lake; the southeast fork extends toward the Tangle Lakes (MP 24.7).
7. Landmark Gap Trail North, north to Landmark Gap Lake (MP 24.6).
8. Swede Lake Trail, south to the Swede Lakes, trails 9 and 10 depart from this trail (MP 16).
9. Middle Fork Gulkana Branch Trail, parallels the Middle Fork Gulkana River, west to Dickey Lake; east to Meier Lake.
10. Alphabet Hills Trail, south extension of Swede Lake after crossing the Middle Fork Gulkana River.
11. Yost/Top of the World Trail, declared non historic in 1987. This trail originates along the Richardson Highway, north and east of the National Register District.

Additional trails may be opened as required federal legislation, pertinent to historic properties and environmental concerns, are met. The above designations become effective upon publication in the FR and will remain in effect until rescinded and/or modified by the Authorized Officer.

Operators of ORVs in violation of these designations are subject to penalties prescribed in 43 CFR 8340.0–7 and Public Law 96–95.

ADDRESSES: Direct questions and/or comments to: Glennallen District Manager, Bureau of Land Management, P.O. Box 147, Glennallen, Alaska 99588. (907) 822–3217.

FOR FURTHER INFORMATION CONTACT: Patricia McCoy 907/822–3217.

Dated: April 23, 1992.

Gene R. Keith,

District Manager.

[FR Doc. 92–10269 Filed 5–1–92; 8:45 am]

BILLING CODE 4310–JA–M

[NV–940–02–4212–22]

Filing of Plats of Survey; Nevada

April 22, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing was effective at 10 a.m. on April 14, 1992.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6543.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada on April 14, 1992:

Mount Diablo Meridian, Nevada

T. 21 S., R. 59 E.—Dependent Resurvey
T. 22 S., R. 59 E.—Dependent Resurvey
T. 24 N., R. 36 E.—Dependent Resurvey
T. 25 N., R. 36 E.—Dependent Resurvey
T. 14 N., R. 19 E.—Dependent Resurvey and Subdivision of Section 12.

These surveys were accepted March 26, 1992, and were excuted to meet certain administrative needs of the Bureau of Land Management.

The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Marla B. Bohl,

Acting Deputy State Director, Nevada.

[FR Doc. 92–10270 Filed 5–1–92; 8:45 am]

BILLING CODE 4310–HC–M

[CA–060–4214–11; R–01052, R–02052, CA–7073, CA–7074, CA–7101, CA–7103, CA–7231, CA–7232, CA–7234, CA–7236, CA–7238, CA–7239, R–07752]

Proposed Continuation of Withdrawals; CA; Correction

AGENCY: Bureau of Land Management.

SUMMARY: In notice document 92–4838 beginning on page 7599 in the issue of Tuesday, March 3, 1992, Volume 57, No. 42, make the following corrections:

1. On page 7599, under serial number CA–7231, in the second column, line 22 from the bottom, the description for T.14S., R.16E., Sec. 23, which reads, "E½SW¼, W½SE¼" is corrected to read: "E½SW¼." In the third column, line 11 from the bottom, the description for T.17S., R.19E., Sec. 1, which reads, "lots 1,2,3,4,N¼N½,S½NW¼" is corrected to read: "lots 1,2,3,4,N½N½ ,S½NW¼."

2. On page 7600, under serial number CA–7235, in the first column, line 28 from the bottom, the description for T.16S., R.20E., Sec. 55, which reads, "all" is corrected to read: "NE¼,N½NW¼." Under serial number CA–7236, in the third column, line 13 from the top, the description for T.8S., R.11E., Sec. 20, which reads, "portions of W½SW¼ South and West of State Highway 111" is corrected to read: "portions of W½SW¼ South and West of State Highway 111, portions of SE¼SW¼ South and West of State Highway 111."

3. On page 7601, under serial number CA–7236, in the first column, line 28 from the bottom, the description for T.11S., R.12E., Sec. 30, which reads, "lots 1&2 of NW¼, lots 1&2,E½" is corrected to read: "lots 1&2 of NW¼, lots 1&2 of SW¼,E½."

Dated: April 22, 1992.

G. Ben Koski,

Area Manager, El Centro Resource Area.

[FR Doc. 92-10147 Filed 5-1-92; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-92-4214-11; Nev-042819]

Proposed Continuation of Withdrawal; Nevada

April 22, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that 92,647.32 acres of the Lahontan, Mustang/Wadsworth, Fernley, Scheckler, and Soda Lake areas of the Newlands Project withdrawal be continued for an additional 50 years. The lands will remain closed to surface entry and mining.

DATES: Comments should be received by August 3, 1992.

ADDRESSES: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-785-6526.

The Bureau of Reclamation proposes that a part of the existing land withdrawal made by Secretarial Orders of July 2, 1902, July 17, 1902, July 6, 1904, July 21, 1904, August 4, 1904, February 7, 1905, April 28, 1905, April 11, 1907, May 4, 1907, May 10, 1907, June 9, 1907, September 7, 1907, November 30, 1907, December 2, 1907, December 20, 1907, February 6, 1908, June 9, 1908, August 13, 1908, August 26, 1908, July 9, 1910, March 9, 1914, March 20, 1915, February 25, 1921, and November 6, 1925, be continued for a period of 50 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian

T. 20 N., R. 23 E.,
Sec. 20, Lot 1, N½N½, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 22, N½SE¼, NE¼SW¼.
T. 20 N., R. 24 E.,
Sec. 10, Lots 12 and 13;
Sec. 16, NW¼NW¼;
Sec. 18, Lot 4, SE¼SW¼, NE¼SE¼;
Sec. 24, SW¼NW¼, SW¼ except Patent 27-91-0104.
T. 17 N., R. 25 E.,
Sec. 2, Lots 1, 2, S½SW¼, SW¼SE¼;
Sec. 13, SE¼;
Sec. 14, NW¼NE¼, NW¼, NW¼SW¼;
Sec. 22, NW¼NW¼;
Sec. 23, E½SW¼, SE¼;
Sec. 24.
T. 18 N., R. 25 E.,
Sec. 16, that portion south of U.S. Highway 50;
Sec. 20;
Sec. 22, N½;
Sec. 26, S½N½;
Sec. 28, SE¼;
Sec. 32;
Sec. 34, N½NW¼, NE¼, NE¼SE¼.
T. 20 N., R. 25 E.,
Secs. 2, 10, 12, 14, 16;
Sec. 18, NE¼;
Sec. 22, S½SW¼;
Sec. 24, Lots 3 and 4.
T. 21 N., R. 25 E.,
Secs. 24, 26, and 34, that portion south of Interstate Highway 80;
Sec. 36.
T. 17 N., R. 26 E.,
Sec. 6, S½;
Sec. 8;
Sec. 16;
Sec. 17, SW¼, E½;
Secs. 18-21, inclusive;
Secs. 28-33, inclusive.
T. 18 N., R. 26 E.,
Sec. 2, N½;
Sec. 4, W½NW¼, NW¼SW¼;
Sec. 8, NW¼, W½NE¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 10;
Sec. 16, NE¼, SE¼NW¼;
Sec. 18;
Sec. 20, S½SW¼, NE¼, SW¼;
Sec. 30, Lot 2, NE¼, SE¼NW¼;
T. 19 N., R. 26 E.,
Sec. 2, S½NE¼, SW¼NW¼NE¼, SE¼NE¼NW¼;
Sec. 4, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, S½SE¼, NE¼SE¼, E½NE¼, NW¼NE¼;
Sec. 10, W½NW¼, N½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 14, S½S½;
Sec. 22, E½, SE¼NW¼, E½SW¼;
Sec. 24, NW¼NW¼.
Sec. 26, N½, SW¼, NW¼SE¼;
Sec. 32, E½SE¼;
Sec. 34;
Sec. 36, SW¼, NE¼, SE¼NW¼.
T. 20 N., R. 26 E.,
Secs. 6 and 18;
Sec. 26, N½, SE¼, NW¼SW¼;
Sec. 28, S½;
Sec. 30
Sec. 32, all except Patent 1066760;
Sec. 34, NW¼SW¼SW¼, NW¼NW¼SW¼SW¼.
T. 21 N., R. 26 E.,
Sec. 18, that portion south of Interstate Highway 80;
Secs. 20, 30 and 32.
T. 18 N., R. 27 E.,
Secs. 1, 2, 4, 6, and 8;
Sec. 9, S½;
Secs. 10 to 16, inclusive;
Secs. 21 to 26, inclusive;
Sec. 36.
T. 19 N., R. 27 E.,
Sec. 2, NW¼, SE¼, N½NE¼, S½SW¼;
Sec. 4;
Sec. 6, Lots 1-7, SE¼NW¼, S½NE¼, E½SW¼, N½SE¼;
Sec. 8, NE¼, E½SE¼, NE¼NW¼;
Sec. 10, N½, N½S½;
Sec. 12, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 14, N½NW¼, NW¼NE¼, S½S½S½NE¼;
Sec. 16;
Sec. 18, W½SE¼NE¼, W½NE¼SE¼;
Sec. 20, N½;
Sec. 26;
Sec. 28, S½;
Sec. 30, Lots 2, 3, 4, E½W½, E½;
Secs. 32, 34, 35, and 36.
T. 20 N., R. 27 E.,
Secs. 2, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 21 N., R. 27 E.,
Sec. 36.
T. 16 N., R. 28 E.,
Sec. 1.
T. 17 N., R. 28 E.,
Secs. 3 and 10;
Sec. 11, W½;
Sec. 23, W½, W½E½;
Sec. 25, Lots 1, 2, 3, W½, W½NE¼;
Sec. 26, N½ SW¼, N½SE¼;
Sec. 35, S½, NW¼;
Sec. 36, Lots 3, 4, SW¼, W½SE¼.
T. 18 N., R. 28 E.,
Sec. 5, E½SE¼SE¼NE¼;
Sec. 6, W½;
Sec. 7, W½, W½E½;
Sec. 18, SW¼;
Secs. 17 to 20, inclusive;
Sec. 21, S½, W½NW¼, SW¼NE¼;
Sec. 27, SW¼SW¼;
Secs. 28, 29, 32, and 33;
Sec. 34, W½W½, SE¼SW¼.
T. 19 N., R. 28 E.,
Secs. 1 and 2;
Sec. 3, E½;
Sec. 4, Lots 1, 2, S½NE¼, N½SE¼;
Sec. 6, Lots 5 and 7;
Sec. 8, NE¼NE¼NE¼NE¼, SW¼NE¼, W½SE¼;
Sec. 10, NE¼NE¼, N½SE¼, SE¼SE¼;
Secs. 11 AND 12;
Sec. 13, NW¼NW¼;
Sec. 14, W½NE¼, NW¼;
Sec. 15, N½, N½S½, SW¼SW¼, SE¼SE¼;
Sec. 16, NE¼NE¼, SE¼;
Sec. 17, NW¼;
Sec. 21, N½NE¼, E½NE¼NW¼;
Sec. 22, N½NW¼, SW¼NW¼, S½SE¼SW¼SW¼, S½N½SE¼SW¼SW¼, E½E½SW¼SW¼SW¼;
Sec. 31, Lots 3 and 4.
T. 20 N., R. 28 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 25, 26, 28, and 30;
Sec. 32, E½, W½SW¼;
Sec. 34;
Sec. 35, S½;
Sec. 36.
T. 21 N., R. 28 E.,
Secs. 26, 28, 32, 34, 36.

The area described aggregates 92,647.32 acres in Churchill, Lyon, Storey, and Washoe Counties.

The Newlands Project was established to provide irrigation water from the Truckee and Carson Rivers for the lower Carson Valley near Fallon. The lands are used to conduct the

operation and maintenance activities of Lahontan dam and reservoir. The land is being utilized for that purpose. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Maria B. Bohl,

Acting Deputy State Director, Operations.

[FR Doc. 92-10271 Filed 5-1-92; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
Santa Fe International Corporation, Pipeline Activity, SEA No. OCS-G 13244.	High Island Area, East Addition, South Extension, Blocks A-368 and A-373, Lease OCS-G 13244, 116 miles southeast of the Texas Point National Wildlife Refuge in Jefferson County, Texas.	Dec. 16, 1991.
Conoco Inc., Non-hazardous Waste Disposal Activities (Onsite Injection).	East Cameron Area, Block 56, Lease OCS-G 3529, 11 miles south of Cameron Parish, Louisiana.	Nov. 18, 1991.
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 88-20B.	Ship Shoal Area, Block 296, Lease OCS-G 1535, 72 miles south of Terrebonne Parish, Louisiana.	Mar. 18, 1992.
Amerada Hess Corporation, structure removal operations, SEA Nos. ES/SR 91-36/S and 91-37/S.	North Padre Island Area, Block A-43, Lease OCS-G 8076, 30 miles east of Kleberg County, Texas.	Sept. 10, 1991.
Elf Exploration Inc., structure removal operations, SEA No. ES/SR 91-38/S.	East Cameron Area, Block 318, Lease OCS-G 5393, 111 miles south of Cameron Parish, Louisiana.	Oct. 30, 1991.
Chevron U.S.A., structure removal operations, SEA Nos. ES/SR 91-102 through 91-105.	West Cameron Area, Block 48, Lease OCS-G 1351, 4 miles south of Cameron Parish, Louisiana.	Sept. 20, 1991.
Mesa Operating Limited Partnership, structure removal operations, SEA No. ES/SR 92-01/S.	Brazos Area, Block A-39, Lease OCS-G 4559, 37 miles southeast of Matagorda County, Texas.	Oct. 18, 1991.
Conoco Inc., structure removal operations, SEA Nos. ES/SR 92-01 through 92-06.	West Cameron Area, Blocks 194, 177, 66, 65, and 216; East Cameron Area, Block 67, 10 to 38 miles south of Cameron Parish, Louisiana.	Feb. 28, 1992.
CNG Producing Company, structure removal operations, SEA No. ES/SR 92-02/S.	High Island Area, South Addition, Block A-476, Lease OCS-G 4742, 102 miles southwest of Cameron Parish, Louisiana.	Dec. 5, 1991.
CNG Producing Company, structure removal operations, SEA No. ES/SR 92-03/S(A).	East Cameron Area, South Addition, Block 347, Lease OCS-G 2566, 108 miles south of Cameron Parish, Louisiana.	Mar. 2, 1992.
Roberts & Bunch Offshore, Inc., structure removal operations, SEA No. ES/SR 92-04/S.	High Island, East Addition, Block A-246, Lease OCS-G 8176, 87 miles south of Cameron Parish, Louisiana.	Oct. 30, 1991.
Pennzoil Exploration and Production Company, structure removal operations, SEA No. ES/SR 92-07.	Ship Shoal Area, Block 186, Lease OCS 0823, 36 miles south of Terrebonne Parish, Louisiana.	Nov. 15, 1991.
TOTAL Minatome Corporation, structure removal operations, SEA Nos. ES/SR 92-008 through 92-010.	South Marsh Island Area, Block 7, Lease OCS-G 1178, 26 miles southwest of Shell Keys National Wildlife Refuge in Iberia Parish, Louisiana.	Nov. 4, 1991.
Unocal Exploration Corporation, structure removal operations, SEA No. ES/SR 92-11(A).	West Cameron Area, South Addition, Block 552, Lease OCS-G 2556, 95 miles south of Cameron Parish, Louisiana.	Nov. 1, 1991.
General Atlantic Resources, Inc., structure removal operations, SEA No. ES/SR 92-12.	Vermilion Area, Block 72, Lease OCS-G 4104, 16 miles south of Vermilion Parish, Louisiana.	Dec. 6, 1991.
Texaco Inc., structure removal operations, SEA No. ES/SR 92-13.	South Marsh Island Area, Block 219, Lease OCS 0310, 22 miles southwest of St. Mary Parish, Louisiana.	Mar. 5, 1992.
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA No. ES/SR 92-14.	West Cameron Area, Block 617, Lease OCS-G 2559, 147 miles south of Cameron, Louisiana.	Jan. 30, 1992.
Pennzoil Exploration and Production Company, structure removal operations, SEA No. ES/SR 92-15.	Ship Shoal Area, Block 186, Lease OCS 0823, 30 miles south of Terrebonne Parish, Louisiana.	Jan 9, 1992.
CNG Producing Company, structure removal operations, SEA No. ES/SR 92-16.	South Timbalier Area, Block 75, Lease OCS-G 8443, 27 miles south of Terrebonne Parish, Louisiana.	Mar. 13, 1992.
Elf Aquitaine Operating, structure removal operations, SEA No. ES/SR 92-021.	Eugene Island Area, South Addition, Block 342, Lease OCS-G 2319, 66 miles southwest of the Isles Dernieres, Terrebonne Parish, Louisiana.	Feb. 19, 1992.
Kerr-McGee Corporation, structure removal operations, SEA Nos. ES/SR 92-24 through 92-27.	Ship Shoal Area, Block 214, Lease OCS 0828, 36 miles south of Terrebonne Parish, Louisiana.	Mar. 11, 1992.
Corpus Christi Oil and Gas Company, structure removal operations, SEA No. ES/SR 92-041.	High Island Area, Block 86, Lease OCS-G 6147, 42 miles west of Galveston County, Texas.	Feb. 28, 1992.
Elf Exploration, Inc., structure removal operations, SEA No. ES/SR 92-47.	Eugene Island Area, Block 184, Lease OCS-G 5498, 42 miles south of St. Mary Parish, Louisiana.	Feb. 28, 1992.
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 92-048.	Vermilion Area, Block 260, Lease OCS-G 3552, 75 miles south of Vermilion Parish, Louisiana.	Mar. 17, 1992.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: April 22, 1992.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 92–10303 Filed 5–1–92; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

Motor Passenger Carrier or Water Carrier Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers pursuant to 49 U.S.C. 11343–11344. The applications are governed by 49 CFR part 1182, as revised in Pur., Merger & Cont.-Motor Passenger & Water Carriers, 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

MC–F–20061, filed April 10, 1992. F. E. Kaiser—Control—Kerrville Bus Company and Jefferson Partners, d/b/a Jefferson Lines. *Applicant's representative:* Elliott Bunce, suite 1210, 1600 Wilson Blvd., Arlington, VA 22209. F. E. Kaiser (Kaiser), a non-carrier individual, controls through stock ownership Kerrville Bus Company (Kerrville) (MC–27530), a motor common carrier of passengers. Kaiser will also control, as Chairman of its Board, the newly-formed Jefferson Bus Company (Jefferson Bus), a non-carrier corporation that will be the general partner of Jefferson Partners, d/b/a Jefferson Lines (new Jefferson), a limited partnership. Kaiser will also hold a 12½ percent equity interest in new Jefferson. In No. MC–252540, new Jefferson is applying for passenger operating authority similar to that held by the bankrupt Jefferson Lines, Inc. (old Jefferson) (MC–60325). Upon new Jefferson's receiving the requested authority, old Jefferson's authority will be revoked. New Jefferson is purchasing most of old Jefferson's assets, but not its operating rights.

Kaiser, Kerrville, new Jefferson and old Jefferson simultaneously filed a motion to dismiss the application. This will be addressed by a separate decision.

Decided: April 28, 1992.

By the Commission, the Motor Carrier Board.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–10329 Filed 5–1–1992; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–367 (Sub-No. 1X)]

Georgia Central Railway, L.P.—Abandonment Exemption—in Dodge and Telfair Counties, GA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 17.7-mile line of railroad between milepost 629.2, near Rhine, and milepost 611.5, near Helena, in Dodge and Telfair Counties, GA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to the use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 3, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed on May 14, 1992.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 26, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by May 8, 1992. Interested persons may obtain a copy of

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927–6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 27, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–10324 Filed 5–1–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Appointment of New Members

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of appointment of members.

Notice is hereby given that appointments have been made to fill fifteen (15) vacancies on the Advisory Committee on Construction Safety and Health. The vacancies were created by the expiration of the terms of the fifteen (15) members on June 30, 1990. The new membership of the Committee and the categories represented are as follows:

Employee

Mr. Joe A. Adam, Director, Department of Safety and Health, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry (reappointed).

Mr. Jim E. Lapping, Director of Safety, Building and Construction Trades Department, AFL–CIO (reappointed).

Mr. John B. Moran, Director, Occupational Safety & Health, Laborers' National Health and Safety Fund (new appointment).

Ms. Brenda Bratt Su Marie Reshad Smith, Director, Georgia Women in Trades (new appointment).

Mr. Richard Tissiere, President and Business Manager, Heavy and General Construction Laborers' Union, Local 472 (new appointment).

Employer

Mr. Stewart C. Burkhammer, Vice President and Manager, Safety Services, Bechtel Construction Co. (new appointment).

Mr. Stephen J. Cloutier, Safety/Loss Control Manager, Metric Constructors, Inc. (reappointed).

Mr. Paul A. King, Loss Control Manager, Pizzagalli Construction Co. (new appointment).

Mr. Henry S. Randolph, Randolph and Company, Inc. (new appointment).

Ms. Kathryn G. Thompson, President and Chief Executive Officer, Kathryn G. Thompson Development Company (new appointment).

State

Mr. Al Meier, Commissioner of Labor, State of Iowa (reappointed).

Mr. Robert W. Stranberg, Deputy Director, California Division of Occupational Safety & Health, State of California (new appointment).

Health and Safety Professionals

Ms. Naomi Mass, Vice President, City Underwriting Agency, Inc. (new appointment to serve as Chairman).

Mr. William H. Spain, President, Environmental Management Group, Inc., National Asbestos Council (new appointment).

Federal

Ms. Diane Dunkin Porter, Assistant Director for Legislation and Policy Coordination, National Institute for Occupational Safety and Health (NIOSH) (new appointment).

Each of these members has been appointed for a term which will end on March 23, 1994.

The Advisory Committee on Construction Safety and Health was established under section 107 of the Contract Work Hours and Safety Standards Act and 7(b) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor on matters pertaining to construction safety and Health.

For Additional Information Contact: Tom Hall, Division of Consumer Affairs, room N–3647, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 523–8615.

Signed at Washington, DC, this 29th day of April, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92–10330 Filed 5–1–92; 8:45 am]

BILLING CODE 4510–26–M

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standard Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on May 19–20, 1992, in Room S–2508 of the Frances Perkins Building, Department of Labor, Washington, DC. The meeting is open to the public and will begin at 9 a.m. on each day.

The agenda for this meeting includes reports on the following subjects: Construction accident and fatality data, construction inspection targeting, crane safety, regulation of occupational exposure to lead, a potential 1910/1926 recodification project, status of proposed revisions of scaffold and fall protection standards, and update regarding other construction-related projects. In addition, the Advisory Committee will address a proposal to reduce construction industry employee exposure to methylene chloride.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chairman of the Advisory Committee.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone 202–523–8615. An official record of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC this 29th day of April, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92–10325 Filed 5–1–92; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings; Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is

hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322. Hearing-impaired individuals are advised that information on this matter may be obtained by contracting the Endowment's TDD terminal on 202/786–0282.

SUPPLEMENTARY INFORMATION: The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of title 5, United States Code.

1. *Date:* May 15, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review faculty Graduate Study Program applications for study at Historically Black Colleges and Universities, submitted to the Division of Fellowships and Seminars, for project beginning after January 1993.

David, C. Fisher.

Advisory Committee, Management Officer.

[FR Doc. 92–10278 Filed 5–1–92; 8:45 am]

BILLING CODE 7536–01–M#

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes; Meeting

AGENCY: Nuclear regulatory Commission.

ACTION: Notice of meeting.

The Advisory Committee on the Medical Uses of Isotopes will conduct a closed meeting as part of the May 7 and 8, 1992 meeting (if time permits). The purpose of the meeting is to discuss the training and experience credentials of two individuals who have been proposed as authorized users for medical use. The meeting will be closed to discuss information of a personal nature where disclosure would consititute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

For further information, contact John Glenn, Ph.D., at (301) 504–3418.

Dated: April 28, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–10341 Filed 5–1–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The President's Council of Advisors on Science and Technology will meet on May 7–8, 1992, in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC. The meeting will begin at approximately 9 a.m. on Thursday, May 7, 1992, and conclude at approximately 12 Noon on Friday, May 8, 1992. The purpose of the Council is to advise the President on matters involving science and technology.

TYPE OF MEETING: Open and Closed.

AGENDA: The National Academy of Sciences will present to the Council a Report on Integrity and Misconduct in Science. This portion of the meeting will be open to the public. The Council will then go into closed session. Areas of discussion in the sessions closed to the public will include discussion of personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, closed pursuant to title 5, U.S. Code, section 552b(c)(6). Other areas of discussion will include a project on the health of U.S. colleges and universities and deliberations on final reports regarding high performance computing communications and biological diversity and the United Nations Conference. These portions of the meeting will also be closed, pursuant to title 5, U.S. Code, section 552b(c)(1), (2), and (9)B, and title 5 U.S. Code, appendix 2, section 10, because the classified matters and proprietary and commercial information to be discussed is so inextricably intertwined with unclassified matters so as to preclude opening this portion of the meeting.

Because of the security requirements, persons wishing to attend the open portion of the meeting should contact Ms. Ann Barnett, (202) 395–4692, prior to 3 p.m. on May 6, 1992. Ms. Barnett is available to provide specific information regarding time, place, and agenda.

Pursuant to 41 CFR 101–6.1015(b)(2), this notice is published less than 15 days before the Council meeting due to difficulties in arranging scheduling and agenda items.

Dated: April 28, 1992.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 92–10281 Filed 5–1–92; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Pacific Waste Management, Inc.; Order Directing Suspension of Trading

April 28, 1992.

It appear to the Securities and Exchange Commission that there is a lack of adequate, current information concerning the securities of Pacific Waste Management, Inc., formerly known as Detroit Engine Corp. and Pacific Water Sports Ltd., and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, its ability to construct and operate a waste disposal plant in the Republic of Palau, the status of regulatory approval for such construction, as well as inadequate current financial information and the possibility of an unregistered secondary distribution of common stock.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Pacific Waste Management, Inc., over-the-counter or otherwise, is suspended for the period from 9 a.m. EDT, April 29, 1992 through 11:59 p.m. EDT, on May 12, 1992.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–10328 Filed 5–1–92; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1-10031]

Issuer Delisting; Application to Withdraw From Listing and Registration; (Rocking Horse Child Care Centers of America, Inc., Common Stock, $.001 Par Value)

April 28, 1992.

Rocking Horse Child Care Centers of America, Inc. ("Company") has filed an application with the Securities and Exchange Commission, ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, it requests such withdrawal from listing and registration because it believes that it would be in the best interest of the Company and its shareholders. The Company states that the financial burden of maintaining the listing and registration on the PSE, and the fact that the Company's common stock is thinly traded necessitates the filing of this delisting application. According to the Company, it also is currently in the process of restructuring its current and long-term debt obligations. Integral to a successful restructuring of its debt obligations is the timely consummation by the Company of the transactions contemplated by various stock purchase agreements ("Purchase Agreements"). Pursuant to the terms of the Purchase Agreements the Company has agreed to sell approximately 4,000,000 shares of its common stock and warrants to purchase 1,100,000 additional shares of its common stock to a limited group of investors in a private placement. The closing under the Purchase Agreements is contingent upon the Company delisting from the PSE.

Any interested person may, on or before May 19, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-10326 Filed 5-1-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8618]

Issuer Delisting; Application to Withdraw from Listing and Registration; (Ryan Mortgage Acceptance Corporation II, Series 1—Class 1C GNMA-Collateralized Bonds (12.75% Due November 1, 2013); Series 2—Class 2C GNMA-Collateralized Bonds (12.50% Due February 1, 2014)

April 28, 1992.

Ryan Mortgage Acceptance Corporation II ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, the Board of Directors of the Company (the "Board") considers continued listing and registration of the Bonds on the Amex unduly burdensome because:

(i) As of February 25, 1992, there were 79 registered holders of the Series 1, Class 1C Bonds and 24 registered holders of the Series 2, Class 2C Bonds, and no other Bonds were outstanding;

(ii) Since the original issuance of the Bonds in October of 1983 and January of 1984, trading volume has been relatively low, and;

(iii) Continued listing of the Bonds is costly to the Comnpany due to the Company's reporting obligations under the Act.

Any interested person may, on or before May 19, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-10327 Filed 5-1-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended April 24, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48120.
Date Filed: April 23, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex Dated April 21, 1992 Reso 033f—Lebanon.
Proposed Effective Date: May 11, 1992.

Docket Number: 48121.
Date Filed: April 23, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex dated April 14, 1992. Mail Vote 563 (5% increase in fares from People's Republic of China).
Proposed Effective Date: June 1, 1992

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-10295 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ended April 24, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48122.
Date filed: April 24, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 22, 1992.

Description: Application of American Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing foreign air transportation of passengers, property, and mail between the terminal point Miami, Florida, and the terminal point Havana, Cuba.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 92-10294 Filed 5-1-92; 8:45 am]
BILLING CODE 4910-62-M

Coast Guard

[CGD 92-010]

Central Pacific Loran-C Chain Closure

AGENCY: Coast Guard, DOT.
ACTION: Final notice of intent.

SUMMARY: On February 28, 1992, the Coast Guard published a notice and request for comments in the **Federal Register** (57 FR 6882) for early closure of the Central Pacific Loran-C chain, Rate 4990. The Coast Guard will terminate the Loran-C radionavigation service provided by the Central Pacific Loran-C chain, in the Hawaiian Islands, on 30 June 1992, in lieu of continuing operations until 31 December 1992. Continued operation of the Central Pacific Loran-C chain is not economically justified.

FOR FURTHER INFORMATION CONTACT: Commander Richard Armstrong, Chief, Radio Aids Management Branch (G-NRN-1), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001, phone (202) 267-0990.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Central Pacific Loran-C chain was installed in the Hawaiian Islands in the mid-1960's in response to a Department of Defense requirement. The 1990 edition of the Federal Radionavigation Plan (FRP) provides for termination of overseas and Hawaiian Loran-C service when the Department of Defense requirement for Loran-C ends on December 31, 1994. The new satellite based Global Positioning System will allow the Department of Defense to end its requirement for Loran-C in the Hawaiian area before the end of calendar year 1992. Because of the poor coverage and limited number of users in the Hawaiian Islands, the United States Coast Guard's position is that continued operation of the Central Pacific Loran-C chain past 30 June 1992 is not economically justified. The Loran-C system serving the U.S. (continental, coastal, and Alaskan coverage) will remain part of the radionavigation mix.

Discussion of Comments

The coast Guard received three responses; one agreed with early closure and two objected to closure of the Central Pacific Loran-C chain before the date scheduled in the FRP:

(a) Comments in favor of early closure.

(1) The Coast Guard received one response from the Marine Mammal Commission which supported early closure of the Central Pacific Loran-C chain. Their comments expressed concern over closure and cleanup of the Loran-C facility on Kure Atoll and the effects this might have on Hawaiian Monk Seals. They also recommended that National Marine Fisheries Service (NMFS) agents be present on the Island during cleanup activity to ensure compliance with required protective measures.

In the past, the Coast Guard has worked closely with the National Marine Fisheries Service to ensure the protection of wildlife and their habitat. The Coast Guard shares the concerns of the Marine Mammal Commission and is working with both NMFS and the State of Hawaii Department of Land and Natural Resources to ensure that the Kure Atoll facility is dismantled and restored appropriately.

(b) Comments objecting to early closure.

(1) The two objections to early closure were from user organizations who want Loran-C coverage through 1994. A vast majority of the coverage provided by the Central Pacific Loran-C chain does not include the Hawaiian Islands. The cost to maintain the Loran-C coverage to the Hawaiian Islands would be prohibitive for the benefit of the small number of Loran-C users given the incomplete coverage provided by this chain.

(2) The two user organizations also want improved Loran-C coverage in the Hawaiian Islands. Unfortunately, neither reconfiguration of the existing chain nor the addition of stations will improve Loran-C coverage, due to geographical limitations.

(3) One user organization, citing the "Federal Radionavigation Plan", felt closure of this chain is in direct conflict with stated "DOD/DOT policy and Plans for the Future Systems Mix 1990-1992."

It is the Coast Guard's position that closure of this chain is not in conflict with stated policy. The FRP states "the DOD requirement for the Loran-C system will end December 31, 1994. Operations conducted by the U.S. Coast Guard at the Hawaiian and overseas stations will be phased out." DOD user requirements for Loran-C in the Hawaiian area will be met by the June 30, 1992 closure date. Continued operation of this chain for the small number of Loran-C users, for the period of time remaining before the originally scheduled termination date of 31 December 1994, cannot be economically justified.

Determination

In light of the environmental issues, and the comments received, and having met the DOD requirements for Loran-C use, the Coast Guard finds there is no additional justification for continuing to provide Loran-C service in the Hawaiian Islands after 30 June 1992. Therefore, on 30 June 1992, the Coast Guard will terminate the Loran-C service in the Central Pacific.

Sgned: April 28, 1992

W.J. Ecker,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-10339 Filed 5-1-92; 8:45 am]
BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-92-15]

Petitions for Exemption, Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary

is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 25, 1992.

ADDRESSES: Send comments on any petitions in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on April 28, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 12227.
Petitioner: National Business Aircraft Association, Inc.
Sections of the FAR Affected: 14 CFR 91.119 , 91.409, 91.501(a), 91.503 through 91.533, and 91.515(a)(1).
Description of Relief Sought: To extend Exemption No. 1637, as amended, from §§ 91119, 91.409, 91.501(a), 91.503 through 91.533, and 91.515(a)(1) of the Federal Aviation Regulations (FAR) which allows the National Business Aircraft Association, Inc. to continue to allow petitioners's members to use inspection programs required for large turbojet or turboprop powered airplanes for their small civil airplanes and helicopters. It will also allow their operation of the aircraft under subpart F of part 91.

Docket No.: 26832.
Petitioner: Phoenix Air.
Sections of the FAR Affected: 14 CFR 135.267.
Description of Relief Sought: To allow Phoenix Air flight crews to exceed the 10 hours of flight time and the 14 hours of duty time during a 24 hour period, as is currently allowed by the regulations.

Dispositions of Petitions

Docket No.: 26349.
Petitioner: Vocational Industrial Clubs of America.
Sections of the FAR Affected: 14 CFR 147.21.
Description of Relief Sought/ Disposition: To extend Exemption No. 5297 which allows students in aviation maintenance technician schools that are certificated under the provisions of Part 147 of the Federal Aviation Regulations (FAR) to participate in the Vocational Industrial Clubs of America airframe and powerplant aviation skill competition at both state and national levels without the student or school being in violation of § 147.21 of the FAR. *Grant, April 20, 1992, Exemption No. 5297A.*

[FR Doc. 92-10317 Filed 5-1-92; 8:45 am]
BILLING CODE 4910-13-M

Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee Air Carrier/General Aviation Maintenance Subcommittee.

DATES: The meeting will be held on May 26, 1992, at 12 noon. Arrange for oral presentations by May 14, 1992.

ADDRESSES: The meeting will be held at the Hyatt Regency Reston, lake Thoreau Room, 1800 Presidents Street, Reston, VA, at 12 noon.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Renaud, Meeting Coordinator, Aircraft Maintenance Division, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-7461.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Carrier/ General Aviation Maintenance Subcommittee to be held on May 26, 1992. The agenda for the meeting will include reports from the working groups dealing with establishment of current standard weights for passengers and baggage, development of a notice of proposed rulemaking (NPRM) for Part 65 of the Federal Aviation Regulations (FAR), development of an NPRM for reporting requirements of § § 121.703 and 121.705 of the FAR, development of an advisory circular for Special Federal Aviation Regulation (SFAR) 36, and development of an NPRM and advisory circular for maintenance recordkeeping and retention of records.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before May 14, 1992, to present oral statements at the meeting. Written statements (75 copies) may be presented to the committee at any time through the meeting coordinator. Arrangements may be made by contacting the meeting coordinator listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 27, 1992.

Frederick J. Leonelli,

Executive Director, Air Carrier/General Aviation Maintenance Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-10311 Filed 5-1-92; 8:45 am]
BILLING CODE 4910-13-M

Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on May 21, 1992, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sphinx Club, room MR-1, 1312 K Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Designated Federal Official, Air Traffic Rules and Procedures Service, Federal Aviation Administration, telephone: 202-267-8783.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Traffic Subcommittee to be held on May 21, 1992, at the Sphinx Club, room MR-1, 1312 K Street, NW., Washington, DC. The agenda for this meeting will include:

- A progress report on the technical standard order for antiblocking devices for relieving stuck microphone problems.

• A progress report from the Mode S Working Group.

• A briefing on the status of a petition to amend the Mode C veil (Docket No. 26076).

• A progress report from the Pilot Procedures at Non-Towered Airports Working Group.

• A progress report from the Unmanned Aerospace Vehicles Working Group.

Attendance is open to the interested public but will be limited to the space available. The public may present written statements to the subcommittee at any time by providing 30 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 28, 1992.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-10310 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

RTCA, Inc., Task Force 1, GNSS Transition and Implementation Strategy Task Force, Working Group 5; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the meeting of Working Group 5 of the GNSS Transition and Implementation Strategy Task Force to be held May 18-19, 1992, in the RTCA conference room, 1140 Connecticut Avenue NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows:

Monday, May 18—(1) Introductions; (2) Review progress in preparing draft inputs to the GNSS Task Force report.

Tuesday, May 19—(3) Presentations of ideas on the long-range utility of GNSS technology. Emphasis is to be on new and creative uses that enhance utility, productivity, and safety. Advance arrangements for presentations should be made with RTCA, (202) 833-9339; (4) Other business; (5) Date and place of next meeting.

Note: Extension to a third meeting day (May 20) is possible.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the commeittee at any time.

Issued in Washington, DC, on April 27, 1992.

Steve Zaidman,

Designated Officer.

[FR Doc. 92-10314 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

RTCA, Inc., Special Committee 171, Airborne MLS Area Navigation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the fifth meeting of Special Committee 171 to be held May 27-29, 1992 in the RTCA conference room, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows:

(1) Chairman's introductory remarks;

(2) Approval of the fourth meeting's minutes, RTCA paper no. 203-92/SC171-59;

(3) Technical presentations;

(4) Working group reports;

(a) Operations Working Group (WG-1);

(b) Technical Working Group (WG-2);

(c) Architecture/Certification (WG-3);

(5) Review EUROCAE WG-43 activity;

(6) Working group sessions;

(7) In plenary;

(a) Working group progress;

(b) Task assignment;

(8) Other business;

(9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC., on April 27, 1992.

Steve Zaidman,

Designated Officer.

[FR Doc. 92-10315 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

RTCA, Inc., Task Force 1, GNSS Transition and Implementation Strategy Task Force, Working Group 2; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the meeting of Working Group 2 of the GNSS Transition and Implementation Strategy Task Force to be held 12-13, 1992, in the RTCA conference room, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows:

(1) Introductions;

(2) Review progress of Working Group 2 in developing draft inputs to the GNSS Task Force report;

(3) Task assignments;

(4) Other business;

(5) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 27, 1992.

Steve Zaidman,

Designated Officer.

[FR Doc. 92-10316 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In March 1992, there were three applications approved in part.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of

1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved in Part

Public Agency: Huntsville-Madison County Airport Authority, Huntsville, Alabama.
Application Type: Impose and Use PFC Revenue. PFC Level: $3.00.
Total Approved PFC Revenue: $20,831,051.
Earliest Permissible Charge Effective date: June 1, 1992.
Duration of Authority to Impose: November 1, 2008.
Class of Air Carriers not Required to Collect PFC's: None.
Brief Description of Projects Approved:
Runway 18L-36R extension.
Aircraft, rescue, and firefighting (ARFF) vehicle.
Terminal public area.
Replace terminal boilers.
Land acquisition for noise abatement.
Access/security road extension.
Security upgrade.
Air cargo apron expansion.
Airport master plan update.
Runway 18R-36L and air carrier apron rehabilitation.
ARFF training facility.
Fire station expansion.
Directional signage.
General aviation apron overlay.
Runway 18R-36L and taxiway system overlay.
Brief Description of Partially Approved Project: Airport maintenance/snow removal equipment storage facility.
Determination: PFC eligibility of this facility is limited to the size necessary to house eligible airport maintenance and snow removal equipment and to store abrasive and chemical materials for snow removal.
Brief Description of Deferred Project: Western land acquisition (Phase 1).
Determination: FAA decision deferred at the request of Huntsville-Madison County Airport Authority.
Decision Date: March 6, 1992.
For Further Information Contact: Elton E. Jay, FAA Jackson Airports District Office, (601) 965–4628.
Public Agency: Springfield Airport Authority, Springfield, Illinois.
Application Type: Impose PFC.
PFC Level: $3.00.
Total Approved PFC Revenue: $682,306.
Earliest Permissible Charge Effective date: June 1, 1992.
Duration of Authority to Impose: May 1, 1994.
Class of Air Carriers not Required to Collect PFC's: On-demand air taxis.
Brief Description of Projects Approved:
ARFF vehicle.
Overlay Runway 18-36.
Rehabilitate Taxiway A.
Widen Runway 4-22 at both ends.
Edge lighting improvements.
Taxiway CA overlay
Snow removal equipment building, including site work, phase I, and phase II.
Acquisition of Boucher propery.
Acquisition of Niehaus property.
Acquisition of Richardson property.
Acquisition of Bramblett property.
Acquisition of Harris property.
Acquisition of Miller property.
Snow removal equipment.
Airfield signage.
Security/access modifications to meet FAR Part 107.14 requirements and replace airport perimeter fencing.
Environmental asessment for Runway 12-30 extension.
Extension of Runway 12-30.
Newly required FAA signage.
Brief Description of Projects Disapproved:
Two Dodge Ram Chargers.
Removal of selected underground storage tanks.
Installation of an underground fuel storage tank farm.
Determination: These projects are not AIP eligible, and, therefore, not PFC eligible.
Decision Date: March 27, 1992
For Further Information Contact: Louis H. Yates, FAA Chicago Airports District Office, (312) 694–7336.
Public Agency: Metropolitan Airports Commission, Minneapolis, Minnesota.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved PFC Revenue: $23,408,819.
Earliest Permissible Charge Effective Date: June 1, 1992.
Duration of Authority to Impose: April 1, 1993.
Class of Air Carriers not Required to Collect PFC's:
Commercial Operators which fall into one or more of the following categories:
(1) Unscheduled air taxi operations conducted under 14 CFR part 298;
(2) Unscheduled carriage in air commerce of persons for compensation or hire as a commercial operator (not an air carrier) in aircraft having a maximum seating capacity of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds, or the carriage in air commerce of persons in common carriage operations solely between points entirely within any state of the United States in aircraft having a maximum seating capacity of 30 seats or less or a maximum payload capacity of 7,500 pounds or less;
(3) Student instruction;
(4) Aerial work operations including aerial photography or surveying; and
(5) Nonstop flights conducted within a 25 mile radius of the airport carrying persons for the purpose of intentional parachute jumps.
Brief Description of Projects Approved:
Upper level roadway construction.
Lower level roadway construction.
Taxiway C reconstruction.
Brief Description of Project Deferred:
Ground transportation center.
Determination: The FAA will make a decision on this project after a 30-day period in which the Metropolitan Airports Commission is expected to further consult with the air carriers.
Brief Description of Project Disapproved: Lindbergh Terminal vertical circulation.
Determination: This project was disapproved in accordance with Part 158.3, which requires that allowable costs include only those costs incurred on or after November 5, 1990.
Decision Date: March 31, 1992.
For Further Information Contact: Frank Benson, FAA Minneapolis Airports District Office, (612) 725–4221.
Cumulative List of Applications Previously Approved: Muscle Shoals Regional Airport, Muscle Shoals, Alabama
Date approved: February 18, 1992
Level of PFC: $3.00
Total approved PFC revenue: $104,100
Earliest charge effective date: June 1, 1992
Estimated charge expiration date: February 1, 1995
Savannah International Airport, Savannah, Georgia
Date approved: January 23,, 1992
Level of PFC: $3.00
Total approved PFC revenue: $39,501,502
Earliest charge effective date: July 1, 1992
Estimated charge expiration date: March 1, 2004
McCarran International Airport, Las Vegas, Nevada
Date approved: February 24, 1992
Level of PFC: $3.00
Total approved PFC revenue: $428,054,380
Earliest charge effective date: June 1, 1992
Estimated charge expiration date: February 1, 2004

Issued in Washington, DC, on April 21, 1992.

Leonard L. Griggs, Jr.,

Assistant Administrator for Airports.

[FR Doc. 92-10313 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Hennepin and Wright Counties, Minnesota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent (NOI).

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Hennepin and Wright Counties, Minnesota.

FOR FURTHER INFORMATION CONTACT: Alan J. Friesen, Program Operations Engineer, Federal Highway Administration, suite 490 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101, Telephone: (612) 290-3236.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal to improve U.S. Route 12 in Hennepin and Wright Counties Minnesota. The proposed improvement would involve the reconstruction of the existing U.S. Route 12 between MNTH 25 west of Delano and MNTH 101 in Wayzata for a distance of about 18 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand, safety and accessibility. The proposed upgrade is a conversion from a two-land, two-way roadway to a four-lane, divided roadway.

Alternatives under consideration include (1) taking no action; (2) widening the existing two-lane highway to four lanes; and (3) constructing a four-lane, limited access highway on a new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A corridor study to identify possible alternatives was begun and is currently in progress. A series of public meetings will be held in Orono and Delano between July, 1992 and August, 1993. In addition, public hearings will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. Formal scoping meetings are planned for June, 1992.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Stephen J. Bahler,

Acting Program Operations Engineer, Federal Highway Administration.

[FR Doc. 92-10177 Filed 5-1-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 17-92]

8 Percent Treasury Bonds of November 2021; (CUSIP No. 912810 EL 8)

Washington, April 29, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Bonds. The Bonds will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The issue date and maturity date of the Bonds are stated in the offering announcement. The Bonds will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Bonds will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. and 2.2. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.4. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revisión (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired expressed in terms of an annual yield with two decimals, e.g., 7.10 percent. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Bonds being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Bonds to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive bids at yields higher than the highest acceptable yield, as specified in the offering announcement, will not be accepted since their equivalent prices would fall below the original issue discount limit. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, the price on each competitive tender allotted will be determined. Each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch of the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12:00 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid

was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Bonds specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement must include any accrued interest specified in the offering announcement. Settlement on Bonds allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment B to this circular.

6.2. Attachment B also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to separate components for this Bond is stated in the offering announcement and the public announcement of the amount and yield range of accepted bids. Par amounts greater than the minimum amount must be in multiples of that amount.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum multiple amounts previously announced, must be submitted together for reconstitution.

6.6. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.7. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.8. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B, and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) Bank Holding Companies and Subsidiaries

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) Banks and Branches

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) Thrift Institutions and Branches

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) Corporations and subsidiaries

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) Families

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) Partnerships

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) Guardians, Custodians, or other Fiduciaries

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) Trusts

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) Political Subdivisions

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) Mutual Funds

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) Money Market Funds

A money market fund (includes all funds that have a common management).

(12) Investment Agents/Money Managers

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) Pension Funds

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Attachment B—CUSIP Numbers and Designations for the Principal Component and Interest Components of 8% Treasury Bonds of November 15, 2021, CUSIP No. 912810 EL 8

The Principal Component is designated 8% Treasury Principal (TPRN) 2021 due November 15, 2021, CUSIP No. 912803 AY 9.

Interest Components

Designation	CUSIP 912833	Designation	CUSIP 912833
Treasury Interest (TINT) Due		Treasury Interest (TINT) Due	
Nov. 15, 1992	EV 8	Nov. 15, 2007	GB 0
May 15, 1993	EW 6	May 15, 2008	GC 8
Nov. 15, 1993	EX 4	Nov. 15, 2008	GD 6
May 15, 1994	EY 2	May 15, 2009	GE 4
Nov. 15, 1994	EZ 9	Nov. 15, 2009	GF 1
May 15, 1995	FA 3	May 15, 2010	JU 5
Nov. 15, 1995	FB 1	Nov. 15, 2010	JV 3
May 15, 1996	FC 9	May 15, 2011	JW 1
Nov. 15, 1996	FD 7	Nov. 15, 2011	JX 9
May 15, 1997	FE 5	May 15, 2012	JY 7
Nov. 15, 1997	FF 2	Nov. 15, 2012	JZ 4
May 15, 1998	FG 0	May 15, 2013	KA 7
Nov. 15, 1998	FH 8	Nov. 15, 2013	KB 5
May 15, 1999	FJ 4	May 15, 2014	KC 3
Nov. 15, 1999	FK 1	Nov. 15, 2014	KD 1
May 15, 2000	FL 9	May 15, 2015	KE 9
Nov. 15, 2000	FL 7	Nov. 15, 2015	KF 6
May 15, 2001	FN 5	May 15, 2016	KH 2
Nov. 15, 2001	FP 0	Nov. 15, 2016	KK 5
May 15, 2002	FQ 8	May 15, 2017	KM 1
Nov. 15, 2002	FR 6	Nov. 15, 2017	KP 4
May 15, 2003	FS 4	May 15, 2018	KR 0
Nov. 15, 2003	FT 2	Nov. 15, 2018	KT 6
May 15, 2004	FU 9	May 15, 2019	KV 1
Nov. 15, 2004	FV 7	Nov. 15, 2019	KX 7
May 15, 2005	FW 5	May 15, 2020	KZ 2
Nov. 15, 2005	FX 3	Nov. 15, 2020	LB 4
May 15, 2006	FY 1	May 15, 2021	LD 0
Nov. 15, 2006	FZ 8	Nov. 15, 2021	LF 5
May 15, 2007	GA 2		

BILLING CODE 4810-40-M

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

BILLING CODE 4810-40-C

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC MAY 1992 QUARTERLY FINANCING

[Apr. 29, 1992]

Amount offered to public	$15,000 million	$11,000 million	$10,000 million.
Description of Security:			
Term and type of security	3-year notes	10-year notes	29½-year bonds (reopening).
Series and CUSIP designation	Series P-1995 (CUSIP No. 912827 F3 1).	Series A-2002 (CUSIP No. 912827 F4 9).	Bonds of November 2021 (CUSIP No. 912810 EL 8).
CUSIP Nos. for STRIPS Components.	Not applicable	Listed in Attachment B of offering circular.	Listed in Attachment B of offering circular.
Issue date	May 15, 1992	May 15, 1992	May 15, 1992.
Maturity date	May 15, 1995	May 15, 2002	November 15, 2021.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.	8%.
Investment yield	To be determined at auction	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction	To be determined after auction.
Interest payment dates	November 15 and May 15	November 15 and May 15	November 15 and May 15.
Minimum denomination available	$5,000	$1,000	$1,000.
Amount required for STRIPS	Not applicable	To be determined after auction	$25,000.
Terms of Sale:			
Method of sale	Yield auction	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor.	None	None	None.
Key Dates:			
Receipt of tenders	Tuesday, May 5, 1992	Wednesday, May 6, 1992	Thursday, May 7, 1992.
(a) Noncompetitive	Prior to 12 noon, edst	Prior to 12 noon, edst	Prior to 12 noon, edst.
(b) Competitive	Prior to 1 p.m., edst	Prior to 1 p.m., edst	Prior to 1 p.m., edst.
Settlement (final payment due from institutions):			
(a) Funds immediately available to the Treasury.	Friday, May 15, 1992	Friday, May 15, 1992	Friday, May 15, 1992.
(b) Readily-collectible check	Wednesday, May 13, 1992	Wednesday, May 13, 1992	Wednesday, May 13, 1992.

[FR Doc. 92-10387 Filed 4-29-92; 5:03 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series No. 16-92]

Treasury Notes of May 15, 2002, Series A-2002; (CUSIP No. 912827 F4 9)

Washington, April 29, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. and 2.2. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.4. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering

announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time

on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7 must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment B to this circular.

6.2. Attachment B also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannaul interest payment of $1,000 or a multiple of $1,000. Attachment C to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Note may be separated into its component at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest and Principal Components of separated securities may be reconstituted, i.e. restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.6. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.7. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.8. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A, B, and C, and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) Bank Holding Companies and Subsidiaries

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) Banks and Branches

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) Thrift Institutions and Branches

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) Corporations and Subsidiaries

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) Families

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) Partnerships

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) Guardians, Custodians, or other Fiduciaries

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) Trusts

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) Potential Subdivisions

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) Mutual Funds

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) Money Market Funds

A money market fund (includes all funds that have a common management).

(12) Investment Agents/Money Managers

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) Pension Funds

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Attachment B—CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of May 15, 2002, Series A–2002, CUSIP No. 912827 F4 9

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series A–2002 due May 15, 2002, CUSIP No. 912820 BD 8.

INTEREST COMPONENTS

Designation	CUSIP Number 912833	Designation	CUSIP Number 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
November 15, 1992	EV 8	November 15, 1997.	FF 2
May 15, 1993	EW 6	May 15, 1998....	FG 0
November 15, 1993	EX 4	November 15, 1998.	FH 8
May 15, 1994	EY 2	May 15, 1999....	FJ 4
November 15, 1994	EZ 9	November 15, 1999.	FK 1
May 15, 1995	FA 3	May 15, 2000....	FL 9
November 15, 1995	FB 1	November 15, 2000.	FM 7
May 15, 1996	FC 9	May 15, 2001....	FN 5
November 15, 1996	FD 7	November 15, 2001.	FP 0
May 15, 1997	FE 5	May 15, 2002....	FQ 8

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MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

BILLING CODE 4810-40-C

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC MAY 1992 QUARTERLY FINANCING

[Apr. 29, 1992]

Amount Offered to the Public	$15,000 million	$11,000 million	$10,000 million.
Description of Security:			
Term and type of security	3-year notes	10-year notes	29-½-year bonds (reopening).
Series and CUSIP designation	Series P-1995 (CUSIP No. 912827 F3 1).	Series A-2002 (CUSIP No. 912827 F4 9).	Bonds of November 2021 (CUSIP No. 912810 EL 8).
CUSIP Nos. for STRIPS Components.	Not applicable	Listed in Attachment B of offering circular.	Listed in Attachment B of offering circular.
Issue date	May 15, 1992	May 15, 1992	May 15, 1992.
Maturity date	May 15, 1995	May 15, 2002	November 15, 2021.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.	8%.
Investment yield	To be determined at auction.	To be determined at auction.	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction	To be determined after auction.
Interest payment dates	November 15 and May 15	November 15 and May 15	November 15 and May 15.
Minimum denomination available	$5,000	$1,000	$1,000.
Amount required for STRIPS	Not applicable	To be determined after auction	$25,000.
Terms of Sale			
Method of sale	Yield auction	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest Payable by investor.	None	None	None.
Key Dates			
Receipt of tenders	Tuesday, May 5, 1992	Wednesday, May 6, 1992	Thursday, May 7, 1992.
(a) Noncompetitive	prior to 12 noon, edst	prior to 12 noon, edst	prior to 12 noon, edst.
(b) Competitive	prior to 1 p.m., edst	prior to 1 p.m., edst	prior to 1 p.m. edst.
Settlement (final payment due from institutions):			
(a) Funds immediately available to the Treasury.	Friday, May 15, 1992	Friday, May 15, 1992	Friday, May 15, 1992.
(b) Readily-collectible check	Wednesday, May 13, 1992	Wednesday, May 13, 1992	Wednesday, May 13, 1992.

[FR Doc. 92-10386 Filed 4-29-92 5:03 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 15-92]

Treasury Notes of May 15, 1995, Series P-1995; (CUSIP No. 912827 F3 1)

Washington, April 29, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealer pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bides, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent tot he weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of

Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) Bank Holding Companies and Subsidiaries

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) Banks and Branches

A parent bank (includes the parent and/or one more of its branches, whether or not organized as separate entities under applicable law).

(3) Thrift Institutions and Branches

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) Corporations and Subsidiaries

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., and subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) Families

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note. A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) Partnerships

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) Guardians Custodians , or Other Fiduciaries

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) Trusts

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) Political Subdivisions

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any country, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) Mutual Funds

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) Money Market Funds

A money market fund (includes all funds that have a common management).

(12) Investment Agents/Money Managers

An individual, firm, or association that undertakes to service, invest, and/or manage funds for other.

(13) Pension Funds

A pension fund (includes all funds that comprise it, whether or not separetly administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC MAY 1992 QUARTERLY FINANCING

[April 29, 1992]

Amount offered to the Public	$15,000 million	$11,000 million	$10,000 million.
Description of Security:			
Term and type of security	3-year notes	10-year notes	29-1/2-year bonds (reopening).
Series and CUSIP designation	Series P–1995 (CUSIP No. 912827 F3 1).	10-year notes Series A–2002 (CUSIP No. 912827 F4 9).	Bonds of November 2021 (CUSIP No. 912810 EL 8).
CUSIP Nos. for STRIPS Components.	Not applicable	Listed in Attachment B of offering circular.	Listing in Attachment B of offering circular.
Issue date	May 15, 1992	May 15, 1992	May 15, 1992.
Maturity date	May 15, 1992	May 15, 1992	November 15, 2021.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.	8%.
Investment yield	To be determined at auction	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction	To be determined after auction.
Investment payment dates	November 15 and May 15	November 15 and May 15	November 15 and May 15.
Minimum denomination available	$5,000	$1,000	$1,000.
Amount required for STRIPS	Not applicable	To be determined after auction	$25,000.
Terms of Sale:			
Method of sale	Yield auction	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor.	None	None	None.
Key dates:			
Receipt of tenders	Tuesday, May 5, 1992	Wednesday, May 6, 1992	Thursday, May 7, 1992.
(a) Noncompetitive	Prior to 12 noon, edst	Prior to 12 noon, edst	Prior to 12 noon, edst.
(b) Competitive	Prior to 1 p.m., edst	Prior to 1 p.m., edst	Prior to 1 p.m., edst.
Settlement (final payment due from institutions):			
(a) Funds immediatly available to the Treasury.	Friday, May 15, 1992	Friday, May 15, 1992	Friday, May 15, 1992.
(b) Readily-collectible check	Wednesday, May 13, 1992	Wednesday, May 13, 1992	Wednesday, May 13, 1992.

[FR Doc. 92–10388 Filed 4–29–92; 5:03 pm]
BILLING CODE 4810–40–M

Customs Service

[92–44]

Testing of Pressed and Toughened (Specially Tempered) Glassware

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice on the testing of pressed and toughened (specially tempered) glassware.

SUMMARY: Customs has completed a review of the comments submitted by interested parties on the testing of certain articles of glass to ascertain if they have been "pressed and toughened (specially tempered)." These articles are normally imported under Item numbers 7013.29.05, 7013.32.10, 7013.39.10, and 7013.99.20 of the Harmonized Tariff Schedule of the Untied States (HTSUS).

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Zimmerman, Jr., Office of Laboratories & Scientific Services, (202) 566–2446.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Customs Service published a request for comments on a proposed method for the testing of "pressed and toughened (specially tempered)" glassware at 56 FR 50,973 (Oct. 9, 1991). These articles are normally imported under Subheading numbers 7013.29.05, 7013.32.10, 7013.39.10, and 7013.99.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The notice contained a description of both the method currently in use and the proposed altered method. Articles of "safety glass, consisting of toughened (tempered) * * * glass" normally imported under Heading 7007 of the HTSUS, e.g., architectural plate glass, vehicle windshields, were not within the purview of the notice.

The U.S. Customs Service received responses from five interested parties. The issues discussed in these responses will be addressed herein.

Issue 1

Additional criteria for the determination of "pressed." Concerning the dimensional analysis test for determining that an article has been "pressed," one respondent stated that an article having a mouth that is wider than its base does not negate the possibility that it may have been formed by a blowing process. Therefore, other characteristics distinguishing a pressed article should be identified. The respondent states that "[g]lass makers can usually determine the method of manufacture simply by looking at the article." The following characteristics, as suggested by this respondent, are indicative of a pressed article: Thicker walls; mold marks on the bottom (outside surface) possibly caused between the push-up valve and the mold; patterned features such as ribs, handles, flutes, etc.; the item's name or mold number pressed into the glass. Customs believes the issue raised by the respondent is valid. The method will be changed by adding language that instructs the analyst to visually examine an article for the traits suggested above to aid in determining if an article has been "pressed."

Issue 2

New parameters for the thermal shock test. Four of the five respondents agreed that the change in the parameters of the thermal shock test are warranted. The arguments made by the dissenting respondent against the new parameters

seems to indicate that the respondent is not aware that the courts have ruled that the purpose of "specially tempering" glassware, falling under the purview of the HTSUS item number listed above, is to impart a quality of durability not found in annealed glassware. Therefore a meaningful test for durability is necessary. It is the general opinion of both Customs and the other four respondents that the new parameters will make the thermal shock test more meaningful. The negative respondent is found to be non-persuasive and the new parameters will be adopted.

Issue 3

Analysis of replicate articles using the thermal shock test. Customs has made it a practice that, whenever practical, replicate analyses are performed. This is sound analytical practice for any type of commodity. Glassware is no exception. When sets, e.g., 4 place settings of dinnerware, are submitted, several of the articles are tested. However, when the shipment is small or the items are very expensive, Customs may base its findings on the test of one article.

Issue 4

Eliminating the Counter Fall Test. One respondent agrees with the deletion of the counter fall test. Two respondents did not address the issue. One respondent opposed deleting the test, but offered no specific argument to defend this position. One respondent stated that, with some changes, the "drop test may still be useful in making the ultimate judgment of whether a particular piece of glassware is toughened." Two general suggestions were made: choosing the height from which the article is dropped should be dependent upon the size and shape of each article, and the article should be dropped so that it always falls on its mouth. Incorporating this suggestion into the method would require some research. Considering the many different shapes, thickness, diameters, etc. of glassware, it may entail a fairly subjective interpretation by the analyst as to the height selected, even after research on a size/shape vs height study has been completed. Then the problem of ensuring that the article falls on its mouth would have to be solved. Although not raised by the respondent, the research would have to include the type of floor or surface upon which to drop the article. Having performed some of these suggested investigations in developing the original counter fall test, Customs finds that the new parameters for the thermal shock test makes it sufficient to determine toughness and that the counter fall test for toughness is no longer needed. Therefore, the argument to retain the counter fall test is found to be non-persuasive.

Issue 5

Ascertaining that the toughness imparted to the article is due to "specially tempering" the article. There are 3 questions involved with this issue: (1) The basic question of keeping or deleting the center punch test, (2) the interpretation of the results, and (3) the substitution of a polarized light test for this test.

Two of the five respondents agree that the center punch test should be retained intact as it is stated in the proposed method. One respondent agrees that the "method used to obtain the necessary fragments of glass articles is, in principle, acceptable"; but this respondent disagrees with the interpretation of results. Two respondents disagree with retaining the center punch test and, therefore, do not comment on the interpretation of results. In addition to their comments on questions 1 and 2, three respondents suggested that Customs incorporate a polarized light test as an alternate to the center punch test.

To prove that the article has been toughened is not sufficient to satisfy the conditions set forth in the HTSUS. A test is necessary to demonstrate that it has been toughened via a tempering process. As the courts have stated, the purpose for tempering the glassware is to make it more durable. In other words, a sufficient degree of stress must have been imparted to the glassware via a tempering process to make it durable. Customs believes that if the article passes both the thermal shock test for durability and exhibits evidence that it has been tempered, then the article can be described as "toughened (specially tempered)" for Customs purposes.

For opaque glassware Customs must retain the center punch test as described in the **Federal Register** notice, since the notice did not generate a viable alternate method. For transparent and translucent glassware, Customs will institute an assessment of the polarized light method suggested to ascertain its usefulness. Until this assessment is completed, the center punch test as described in the Federal Register notice will be retained for all types of glassware. Upon completion of the study, Customs will decide whether the polarized light method should be incorporated into the overall testing procedure.

Issue 6

Quality control. One respondent requests Customs to "* * * be cautious in ascribing a failed thermal shock test for a sample to the whole shipment * * * let alone to other shipments". Customs is always cautious about the validity of inducing the results of a test on a small population of samples to the whole. Sampling procedures are based on taking a reasonable number of samples based on the circumstances at hand. For example, a relatively large number of samples would be taken if there are different style numbers and lot numbers (samples should be taken from each). However, a smaller number of samples would be taken if certain other circumstances are dominant, e.g., cost of the article, small shipments.

Conclusion

The procedure used by the U.S. Customs Service for testing "pressed and toughened (specially tempered)" glassware articles as proposed at 56 FR 50,973 (Oct. 9, 1991) will be used with the following change. [The method, in its entirety, is presented in the Method section below.]

The Dimension Analysis Test will become a part of an expanded test for determining that an article has been "pressed." The expanded test will be known as the Macroscopic Analysis Test. In addition to comparing the diameter of the mouth, opening, or upper rim of the sample to the maximum inside diameter, the method will instruct the analyst to visually inspect the article for the following characteristics of pressed glass: mold marks on the bottom (outside surface) caused by the push-up valve and the mold; patterned features such as ribs, handles, flutes, etc.; the item's name or mold number pressed into the glass; wall thickness.

Method

Safety Precaution: Certain procedures described in this method pose a potential hazard to personnel from the proximity to or handling of breaking or broken glass. This method shall not be undertaken without supervisory concurrence that adequate precautions for personal safety have been implemented.

I. Apparatus

A. Center Punch

The center punch is a slender tool having one end tapered to a point. The tool should be approximately 8" to 12" in length to permit insertion into tall-form tumblers and other articles of similar shape while the non-pointed end

extends above the rim. This is necessary for ease of handling and for safety while performing the center punch test. The pointed end of the center punch should not be sufficiently sharp to chip the glassware on contact without the application of pressure.

B. Photographic Equipment

A camera (equipped with or supplemented by adequate lighting) capable of photographing broken glass patterns or fragments in sufficient detail to reveal physical characteristics such as the size of the pieces, their shape, and number is recommended for making a permanent record of borderline or unusual samples.

C. Other Apparatus and Supplies

The method requires various common laboratory articles such as an ordinary hammer, a caliper or similar device for measuring the diameter of the opening and the maximum inside diameter of the sample, an oven and water bath, and other equipment and supplies. Appropriate safety devices and appropriate protective clothing are also required.

II. Preparation of the Sample

When available a representative number of samples should be analyzed. However, it is recognized that for any of several reasons, e.g., cost of item, it may be necessary to test a limited number of samples. The possibility that only one may be tested exists.

The analyses should be conducted in the order listed below. The test protocol should be terminated at the point that a sample fails to meet any of the key criteria, i.e., "pressed," "toughened," "tempered," or "specially."

III. Analysis Procedures

A. Macroscopic Analysis

Ecamine each article of glassware as follows:

1. Visual Inspection

Inspect the sample for

- identifying marks, labels, sizes, etc., especially those that may have been caused by a push-up valve and a mold that have been pressed into the article;
- the style (stemware, tumbler, bowl, plate, etc.);
- the presence of ribs, handles, flutes, etc.;
- the size of the rim or opening, if applicable;
- the size of the most bulbous portion of the article;
- any other unusual characteristics (e.g., chips, cracks)

Interpretation of Visual Inspection results: Characteristics such as mold marks, ribs, handles, flutes, are often indicative of a pressed rather than blown glass article.

2. Dimensional Measurement (Applies Only to Stemware, Tumblers, Bowls, etc.)

- Using a caliper or similar device, measure the minimum diameter of the mouth, opening, or upper rim of the sample. With the same device, measure the maximum inside diameter. Record both measurements.

Interpretation of Dimensional Measurement results: A sample having a maximum inside diameter greater than the minimum diameter of the mouth, opening, or upper rim is not likely to have been "pressed."

Interpretation of the Macroscopic Analysis Test: The analyst is advised to consider the overall features of the article and the dimension analysis test results in determining that an article has been "pressed." If the results show that the sample is not "pressed" the testing sequence for this sample should be terminated at this point.

B. Thermal Shock Test

- Heat the sample(s) in an oven to 160°C for 30 minutes.
- Remove 1 sample from the oven and *immediately* immerse it in a water bath set at 25°C. This effects at 135°C difference in temperature.

Note: Reasonable alternate oven and water bath settings up to ±10°C are acceptable as long as the 135°C difference in temperature is maintained.

Interpretation of Thermal Shock test results: If breakage occurs the sample is not "toughened" for Customs purposes. Record the findings, and terminate the method. If breakage does not occur proceed to the Center Punch test.

C. Center Punch Test

- Set the sample to be tested on a solid, level surface.
- Place the pointed end of a center punch, vertically, against the inside center bottom or heel.
- Strike the dull end of the punch with a hammer, using blows of gradually increasing severity, until breakage occurs.
- Note the breakage pattern, number, and relative shape and size of the fragments (indicate this without making an actual count). Photograph the breakage pattern and/or typical fragments, if indicated.

Interpretation of Center Punch test results: To be considered "tempered" for Customs purposes, it is only necessary for the broken sample to exhibit some dicing, crazing or graveling. "Some" will be considered to be any diced, crazed or graveled fragments yielded by the broken sample that is more than just a fugitive diced, crazed or graveled fragment.

"Toughened (specially tempered)" glassware will require considerably more force to break by the center punch test than ordinary glassware and, when it breaks, some graveling or crazing (gravel remaining tenuously in contact with neighboring pieces) will be observed. The word "gravel" is intended to be synonymous with "diced pieces" and implies the presence of small cubes of roughly equal dimensions on all six sides. Neither gravel or crazing will be observed in ordinary glassware.

Powder and splinters will occasionally be observed in samples of "toughened (specially tempered)" glassware. Also, few, if any, of these samples will be reduced entirely to gravel; larger fragments will remain. However, these large fragments will seldom be exceptionally pointed or jagged and broken edges, especially on diced pieces, will be reasonably dull.

The stem and base of the stemware styles seldom disintegrate; the most common breakage pattern for stemware is characterized by a tack-shaped fragment consisting of the base and a portion of the stem remaining intact. The tip of the stem portion should be reasonably dull.

An important feature of "toughened (specially tempered)" glassware is its resistance to breakage, its durability. A sample that has survived the thermal shock testing procedure has been proven to be "toughened," i.e., durable, for Customs purposes. The Center Punch Test then establishes that this toughness/durability has been imparted to the glassware by a tempering process.

If the sample passes both the thermal shock and the center punch test, then the sample has been sufficiently tempered to satisfy the qualifier "specially."

Dated: April 28, 1992.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 92-10332 Filed 5-1-92; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 86
Monday, May 4, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 5, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Mid-Year Review.

The Commission will consider FY 1992 mid-year review issues.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: April 29, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–10439 Filed 4–30–92; 8:45 am]

BILLING CODE 6355–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [57 FR 15119 April 24, 1992].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, April 21, 1992.

CHANGE IN THE MEETING: Cancellation.

A closed meeting scheduled for Tuesday, April 28, 1992, at 2:30 p.m. has been rescheduled for Monday, May 4, 1992, at 10:00 a.m.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Atkins at (202) 272–2000.

Dated: April 29, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–10438 Filed 4–30–92; 1:45 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 57, No. 86
Monday, May 4, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Availability of Clinical Practice Guidelines on Acute Pain Management: Operative or Medical Procedures and Trauma and Urinary Incontinence in Adults

Correction

In notice document 92-8485 beginning on page 12829 in the issue of Monday, April 13, 1992, make the following correction:

On page 12830, in the first column, under the heading **Availability of Guidelines**, in the first paragraph, in the seventh line from the bottom, "not" should read "now".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-48]

Change in Name Assessment to Public Health Assessment

Correction

In notice document 92-6123 beginning on page 9259 in the issue of Tuesday, March 17, 1992, make the following corrections:

1. On page 9259, in the third column, under **SUMMARY**, in the third line, "currently" was misspelled.

2. On the same page, in the same column, under **SUPPLEMENTARY INFORMATION**, in the 12th line, "or" the second time it appears should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-4214-11; R 01051, R 0252, CA-7073, CA-7074, CA-7101, CA-7103, CA-7231, CA-7232, CA-7234, CA-7236, CA-7238, CA-7239, R 077520]

Proposed Continuation of Withdrawals; CA

Correction

In notice document 92-4838 beginning on page 7599 in the issue of Tuesday, March 3, 1992, make the following corrections:

1. On page 7599, in the first column, under T. 6 S., R. 6 E., "Sec. 34" should read "Sec. 24".

2. On the same page, in the second column, under T. 16 S., R. 16 E., Sec. 12 should read "E½NW¼, SW¼SE¼;".

3. On page 7601, in the second column:

a. Under T.12 S., R. 16 E., Sec. 34 should read "E½, N½NW¼, SE¼NW¼;".

b. Under T.12 S., R. 16 E., in Sec. 35, remove "lots".

c. Under T.13 S., R. 17 E., in Sec. 5, remove "lots".

BILLING CODE 1505-01-D

Federal Register

Monday
May 4, 1992

Part II

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-4126-1]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document EPA proposes to require warning labels on containers of, and products containing or manufactured with, certain ozone-depleting substances pursuant to section 611 of the Clean Air Act, as amended. EPA also proposes to require permanent labels on products containing ozone-depleting substances that can be recovered or recycled pursuant to section 608 of the Clean Air Act, as amended. The substances affected by this proposed rulemaking include both class I chemicals (chlorofluorocarbons (CFCs), halons, carbon tetrachloride, methyl chloroform) and class II chemicals (hydrochlorofluorocarbons (HCFCs)).

DATES: Written comments on this notice must be submitted on or before June 3, 1992 if no hearing is held, or June 18, 1992 if the hearing is held. If requested by May 11, 1992. EPA will hold a public hearing on this notice on May 19, 1992. The information contact person listed below may be called regarding a public hearing.

ADDRESSES: Comments should be submitted in duplicate to the attention of Air Docket No. A-91-60 at: U.S. Environmental Protection Agency (LE-131), 401 M Street SW., Washington, DC 20460. The Docket is located in room M-1500, First Floor Waterside Mall and materials relevant to this rulemaking may be inspected from 8:30 am. to 12 noon and from 1:30 to 3:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Martha Dye at (202) 260-6974, Stratospheric Ozone Protection Branch, Global Change Division, Office of Atmospheric and Indoor Air Programs, Office of Air and Radiation, ANR-445, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Background

A. Overview of the Problem

The stratospheric ozone layer protects the earth from the penetration of harmful ultraviolet (UV-B) radiation. A national and international consensus has developed that certain industrially produced halocarbons (including chlorofluorocarbons (CFCs), halons, carbon tetrachloride, methyl chloroform and hydrochlorofluorocarbons (HCFCs)) can transport chlorine and bromine to the stratosphere and there contribute to the depletion of the ozone layer. To the extent depletion occurs, penetration of UV-B radiation increases, resulting in potential health and environmental harm including increased incidence of certain skin cancers and cataracts, suppression of the immune system, damage to crops and aquatic organisms, increased formation of ground-level ozone and increased weathering of outdoor plastics.

B. Federal Action Regarding Aerosols Containing CFCs

Following initial concerns raised by research scientists Mario Molina and Sherwood Rowland in 1974 regarding possible ozone depletion from CFCs, the Food and Drug Administration (FDA) and the Consumer Products Safety Commission (CPSC) required marketers and importers of self-pressurized medical and consumer products that use a chlorofluorocarbon propellant to label their products with a warning that such products may harm public health and the environment by reducing ozone in the upper atmosphere. (See April 29, 1977, 42 FR 22018; and August 24, 1977, 42 FR 42780.) During the mid-1970s, aerosol propellants constituted over 50 percent of the total CFC use in the United States.

On March 17, 1978 (43 FR 11301; 43 FR 11318) EPA and FDA banned the use of CFCs as aerosol propellants in all but "essential applications." The 1978 ban reduced aerosol use of CFCs in this country by approximately 95 percent, cutting total U.S consumption nearly in half.

In the years following the aerosol ban, CFC use increased significantly in the refrigeration, foam and solvent-using industries. By 1985, CFC use in the United States had surpassed pre-1974 levels and represented 29 percent of total global CFC consumption.

C. Montreal Protocol

EPA evaluated the risks of ozone depletion in Assessing the Risks of Trace Gases That Can Modify the Stratosphere (1987) and concluded that an international approach is necessary to effectively safeguard the ozone layer. Because releases of CFCs mix in the atmosphere to affect stratospheric ozone globally, efforts to reduce emissions from specific products by only a few nations could quickly be offset by increases in emissions from other nations, leaving the risks to the ozone layer unchanged.

Recognizing the global nature of this issue, EPA participated in negotiations organized by the United Nations Environment Programme (UNEP) to develop an international agreement to protect the ozone layer. In September 1987, the United States and 22 other countries signed the Montreal Protocol on Substances that Deplete the Ozone Layer. The 1987 Protocol called for a freeze in the production and consumption (defined as production plus imports minus exports of bulk chemicals) of CFC- 11, -12, -113, -114, -115, and halon 1211, 1301 and 2402 at 1986 levels, and a phased reduction of the CFCs to 50 percent of 1986 levels by 1998. Currently, 75 nations representing over 90 percent of the world's consumption are party to the Protocol.

In its August 12, 1988 final rulemaking (53 FR 30566), EPA promulgated regulations implementing the requirements of the 1987 Protocol through a system of tradable

allowances. EPA apportioned allowances to producers and importers of these "controlled" ozone-depleting substances based on their 1986 levels. To monitor industry's compliance with the production and consumption limits, EPA required recordkeeping and quarterly reporting, and conducted periodic compliance reviews and inspections.

D. Excise Tax

As part of the Omnibus Budget Reconciliation Act of 1989, the United States Congress levied an excise tax on the sale of CFCs and other chemicals which deplete the ozone layer, with specific exemptions for exports and recycling. The tax went into effect on January 1, 1990 and has operated as an extremely useful complement to EPA's regulations limiting production and consumption. By raising the costs of using virgin controlled substances, the tax has created an added incentive for industry to shift out of these substances and increase recycling activities, and provided a market for alternative chemicals and processes. The original excise tax was amended by the Internal Revenue Service (IRS) in 1991 to include methyl chloroform, carbon tetrachloride and the other CFCs regulated by the amended Montreal Protocol and title VI of the Clean Air Act Amendments of 1990.

E. London Amendments to the Montreal Protocol

In response to overwhelming scientific evidence of greater than expected stratospheric ozone depletion, the Parties to the Protocol at their second meeting held in London on June 29, 1990 revised the Protocol to require a full phase-out of the regulated CFCs and halons by 2000, a phase-out of carbon tetrachloride and "other CFCs" by 2000 and a phase-out of methyl chloroform by 2005. The Parties also passed a non-binding resolution regarding the use of hydrochlorofluorocarbons (HCFCs) as interim substitutes for CFCs. Partially halogenated HCFCs add much less chlorine to the stratosphere than the fully halogenated CFCs, but still pose some threat to the ozone layer. (See 56 FR 2420; January 22, 1991 for more information on the relative effects of different ozone-depleting substances.)

F. Clean Air Act Amendments of 1990, Title VI

On November 15, 1990 the Clean Air Act Amendments of 1990 were signed into law. The requirements in the new Title VI include phase-out controls of ozone-depleting substances similar to those in the London Amendments of the Protocol, although the title VI interim reductions are more stringent and the phase-out date of methyl chloroform is earlier. Unlike the amended Montreal Protocol, the Clean Air Act as amended also requires regulations restricting the uses of controlled ozone-depleting substances, including non-discretionary provisions to reduce emissions of controlled substances to the "lowest achievable level" in all use sectors, to ban nonessential products, to mandate warning labels, and to establish a safe alternatives program.

G. Subgroup of the Federal Advisory Committee

In the development of today's proposed regulation, EPA was assisted by a subgroup of the standing Stratospheric Ozone Protection Advisory Committee (STOPAC). In 1989, EPA established STOPAC in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. section 9(c). STOPAC consists of members selected on the basis of their professional qualifications and diversity of perspectives and provides balanced representation from the following sectors: industry and business; academic and educational institutions; Federal, state and local government agencies; non-government and environmental groups; and international organizations. Since its formation, STOPAC has provided advice and counsel to the Agency on policy and technical issues related to the protection of the stratospheric ozone layer.

In 1990, members were asked to participate in STOPAC subcommittees to assist the Agency in developing regulations to implement the new requirements of title VI of the Clean Air Act. To date, the full Subcommittee on Labeling has met twice, and smaller "use-sector" working groups have met ten times, reviewing two in-depth briefing packets (contained in the docket) and offering comments and technical expertise on the development of today's proposed rule.

II. Requirements Under Section 611

Title VI of the Clean Air Act divides the controlled ozone-depleting substances into two distinct classes. Class I is comprised of CFCs, halons, carbon tetrachloride and methyl chloroform. Class II is comprised of HCFCs. (See listing notice January 22, 1991; 56 FR 2420.) Section 611 specifies labeling requirements for containers of and products containing or manufactured with class I or class II substances. Section 611(a) requires EPA to promulgate final regulations by May 15, 1992. The statutory authority for today's proposal is sections 611, 608 and 301 of the Act, as amended. Appendix A outlines the types of products that would be affected by this rulemaking, but is not an exhaustive list.

A. Containers of Class I and Class II Substances and Products Containing Class I Substances

Subsection 611(b) of the Clean Air Act mandates that effective May 15, 1993 "no container in which a class I or class II substance is stored or transported, and no product containing a class I substance, shall be introduced into interstate commerce unless it bears a clearly legible and conspicuous label stating: 'Warning: Contains [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere.' "

For the purposes of this proposed regulation, the term "container" is considered to mean the immediate vessel of any size in which a controlled substance is stored or transported, including cans, drums, trucks and isotanks of controlled substances alone or in mixtures.

EPA considers the term "product" to mean an item or category of items manufactured from raw or recycled materials which is used to perform a function or task, and the phrase "product containing" to mean a product that physically holds a controlled substance within its structure, or is intended to be charged with a controlled substance, at the point of sale to the ultimate consumer. The phrase "ultimate consumer" refers to the first commercial or noncommercial purchaser of a container or product that is not intended for re-introduction into interstate commerce alone or as part of another product. A purchaser that is not the ultimate consumer of a product might include a wholesale distributor or manufacturer that purchases components from another manufacturer and incorporates them into a larger product.

This proposed definition of "product containing" is consistent with the List of Products Containing Controlled Substances in appendix D of the Montreal Protocol on Substances That Deplete the Ozone Layer, which represents a subset of all products containing controlled substances. (See reference UNEP Memo June 21, 1991.) Examples include, but are not limited to, charged automobile and truck air conditioning units, domestic and commercial refrigeration equipment (*e.g.*, refrigerators, freezers, dehumidifiers, water coolers, ice

machines, and chillers), aerosol products, fire extinguishers, and insulating boards, panels and pipe covers.

B. Products Manufactured With Class I Substances

Subsection 611(d)(2) mandates that after May 15, 1993 and before January 1, 2015 this same labeling requirement "shall apply to all products manufactured with a process that uses such class I substance unless the Administrator determines that there are no substitute products or manufacturing processes that (A) do not rely on the use of such class I substance, (B) reduce the overall risk to human health and the environment, and (C) are currently or potentially available." EPA is not today proposing to make a determination regarding the availability of substitutes for any product manufactured with a class I substance. EPA was unable to make any such determination in light of the extremely large number of products and the extent to which available information suggests that substitute products or processes are at least potentially available for all products manufactured with class I substances. The process for submitting petitions seeking to exempt such products from the labeling requirement is discussed in subparts II.D. and III.C. below.

The label for products manufactured with a class I substance is required to state: "Warning: Manufactured with [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere." Subsection 611(e)(5) states that effective January 1, 2015, the labeling requirements of this subsection shall apply to all products manufactured with a process that uses a class I or class II substance.

Unlike "products containing," neither the Clean Air Act nor the Montreal Protocol provides explicit direction for defining the phrase "products manufactured with." EPA proposes that "manufactured with" shall mean a product which was manufactured using a controlled substance but does not contain the substance at the point of sale to the ultimate consumer. Examples might include products cleaned with solvents, products with adhesives or coatings using solvents, open celled flexible foam, and certain food and tobacco products.

EPA today proposes to exclude from the definition of "manufactured with" incidental uses, *i.e.*, uses where the controlled substance does not have physical contact with the product. Examples of incidental use could include fresh produce stored in a warehouse refrigerated by a CFC system or clothes from a textile mill where the machinery is maintained with methyl chloroform but the clothes do not have physical contact with the controlled substance. EPA specifically requests comment on its proposed definition of "incidental" uses and other uses of controlled substances that could potentially be considered "incidental."

EPA also proposes to exclude from the definition of "manufactured with" those products which result from the transformation of a controlled substance such that the controlled substance no longer poses a threat to the ozone layer. EPA has promulgated specific regulations to phase-out the production and consumption of ozone-depleting substances that address the transformation or use of controlled substances as feedstocks in the manufacturing processes of other substances. (See subpart A in 40 CFR part 82 for further explanation of transformation.) Examples of products that result from the transformation of a class I substance during their manufacturing process include chlorinated rubber, vinyl chloride, and automobile and airplane fuel, all of which use carbon tetrachloride. In EPA's phase-out regulations, transformation is excluded from the definition of production. Similarly, EPA believes that, for the purposes of the labeling requirement, transformation of a controlled should not be considered to be "manufactured with" a controlled substance.

In developing the definition of "manufactured with," EPA has considered the possibility that too broad an interpretation of the phrase could result in the labeling of virtually every product in the marketplace. EPA believes that such a result could render the labeling program ineffectual by overloading the consumer with information and thus diluting the label's potential impact on purchase decisions. Thus, EPA has proposed exclusions from the definition as discussed above.

EPA believes, however, that too narrow an interpretation of the phrase would also impair the intended impact of the program. It appears, for example, that Congress fully intended that labeling under § 611 affect whole use-sectors, indicating the widespread use of ozone-depleting substances in such use-sectors. Use-sector wide labeling would result in an economic incentive for companies to be the first to manufacture the product without using the substances. EPA believes that the proposed definition of "manufactured with," incorporating the exclusions described above, is faithful to the statutory intent of § 611 without being overly broad so as to lead to a universal labeling requirement.

EPA chooses not to further narrow the definition of "manufactured with" by establishing a *de minimis* use level below which labeling would not be required. The rationale behind such *de minimis* use levels is that small amounts do not have an impact significant enough to warrant regulation. However, while many products may have physical contact with insignificant amounts of a controlled substance during their manufacturing process, aggregate use levels over an entire market segment can be very large and thus pose a serious threat to the ozone layer. Alternatively, products in market segments that have smaller aggregate uses level of ozone-depleting substances could be significant users on a per-product basis. As a result, EPA believes exempting *de minimis* use levels from the definition of "manufactured with" would compromise the effectiveness of the program and could thwart the intent of the statute.

EPA requests comment on its interpretation of the phrase "manufactured with" and on the decision not to set a *de minimis* use level.

C. Products Containing or Manufactured With Class II Substances

Subsections 611 (c)(1) and (d)(1) mandate that after May 15, 1993 the labeling requirement shall apply to products containing or manufactured with a class II substance "if the Administrator determines, after notice and opportunity for public comment, that there are substitute products or manufacturing processes (A) that do not rely on the use of such class II substance, (B) that reduce the overall risk to human health and the environment, and (C) that are currently or potentially available."

The label is required to state either: "Warning: Contains * * *" or "Warning: Manufactured with [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere." Subsections 611 (c)(2) and (e)(5) state that effective January 1, 2015, the labeling requirements of this subsection shall apply to all products containing a class II substance or manufactured with a process that uses a class I or class II substance.

EPA is not today proposing regulations to require labeling of products containing or manufactured with class II substances. EPA believes that it is premature to determine the

availability of substitutes for class II substances at this time because that market is just beginning to develop. EPA will determine the availability of substitutes for class II substances in conjunction with the Safe Alternatives Program required by § 612 of the Act (see subpart II.E. below). The process for submitting petitions seeking to add such products to the labeling requirement is discussed in subparts II.D. and III.C. below.

D. Petitions

Subsection 611(e)(1) specifically allows any person at any time after May 15, 1992 to petition the Agency "to apply the requirements of this section to a product containing a class II substance or a product manufactured with a class I or II substance which is not otherwise subject to" the labeling requirements. Subsection 611(e)(2) states that "Any petition under this paragraph shall include a showing by the petitioner that there are data on the product adequate to support the petition."

Today's proposed rule specifies the format and substance of the supporting data that EPA would require in order to review and grant petitions to apply the labeling requirement to a product not otherwise subject. The Agency also proposes a process for petitions seeking to exempt products manufactured with a class I substance from the labeling requirement and a similar specification for adequate supporting data. As stated above, products manufactured with class I substances and products containing or manufactured with class II substances are not affected by the labeling requirement if there are no currently or potentially available substitutes that reduce the overall risk to human health and the environment. (See subpart III.C. below.) EPA requests comment on the tying together of the exemption criteria for section 611 with determinations under section 612.

E. Relationship to Sections 608 (Emissions Reduction) and 612 (Safe Alternatives)

EPA believes that the requirements of Sections 608 (National Emission Reduction Program) and 612 (Safe Alternatives) are relevant to today's proposed rule.

Section 608(a)(3) requires EPA to promulgate regulations that reduce emissions of controlled substances to their "lowest achievable level" and maximize the recapture and recycling of such substances. EPA believes that requiring permanent labels on products containing recoverable ozone-depleting substances would be an effective way to inform servicers and disposers of the potential for recycling. (See subpart III.B. below.) EPA therefore believes that the authority under Section 608 may be exercised in a manner that complements the requirements of Section 611 for providing information about recycling through labeling. EPA cites the rulemaking authority of Section 608 in support of today's proposal to promulgate labeling regulations for products containing recoverable controlled substances.

Section 612(c) requires EPA to promulgate regulations by November 15, 1992 making it unlawful to use any substitute for a class I or class II substance which may present adverse effects to human health or the environment, where EPA has determined that there are currently or potentially available alternatives that reduce the overall risk to human health and the environment. EPA is also required by 612(c) to publish a list of prohibited substitutes and a list of corresponding acceptable alternatives. Section 612(d) outlines requirements for a petition process to add or remove substances from either of the two lists. EPA believes that determinations made under Section 612 will likely have a direct impact on the labeling requirements under Section 611. The criteria for determining whether a product has an acceptable substitute is identical in both Sections 611 and 612. (See subpart III.C.1.a. below.)

III. Proposed Rule

A. Warning Label Requirements

EPA today proposes to require warning labels on containers of class I or class II substances and on products containing or manufactured with class I substances, pursuant to Section 611 of the Clean Air Act, as amended. EPA believes that Congress intended the labels required by Section 611 to inform the ultimate consumer at the time of purchase decision whether a product or any of its components contains or was manufactured with an ozone-depleting substance so that the consumer, if he or she were so inclined, could choose products that do not use ozone-depleting substances. The increased ability of consumers to express a preference for products not using controlled substances would create a market-based incentive for manufacturers to find and utilize substitutes for ozone-depleting substances that reduce the overall risk to human health and the environment. Where opportunities for substitution away from ozone depleting substances exist, the labeling requirement might aid pollution prevention by encouraging the reduction or elimination in the use of ozone-depleting substances at the source of their use in the manufacturing process. In order to carry out Congressional intent, EPA believes that the warning labels must be carried through the stream of commerce to the ultimate consumer.

EPA requests comment on its interpretation of Section 611 and its emphasis on informed purchase decisions by the ultimate consumer. EPA's proposed regulations reflect this interpretation and attempt to establish a program that is meaningful both to consumers and to manufacturers.

This part of today's notice proposes regulations for the text, placement and form of the warning labels on containers of and products containing or manufactured with ozone-depleting substances as required by Section 611. This part also proposes guidance for alternative placement of the required label, clarifications regarding stream of commerce issues for labeled products and containers.

1. Text of Warning Statement

Section 611 requires that a warning label accompany all affected products and containers and state that the item contains or was manufactured with an ozone-depleting substance and which particular substance was used. (See subparts II.A., II.B. and II.C. above.) Since Section 611 is very specific about the text of the required warning statement, the Agency proposes only two further clarifications under the authority of Section 301(a), which provides EPA with general rulemaking authority to carry out the Agency's functions under the Act.

First, EPA proposes that the substance named on the label following the words "Contains" or "Manufactured with" must be a standard chemical name (*e.g.*, chlorofluorocarbon-113, halon 1211, *etc.*) as stated in the listing notice published in the **Federal Register** on January 22, 1991 (56 FR 2420). EPA believes that warning statements with trade names like "Freon" or abbreviations like "R" for refrigerant would be unnecessarily confusing to consumers, and thus would not fulfill the goal of the labeling requirement. For example, if the label on a consumer product that might include chlorofluorocarbon-12 or hydrochlorofluorocarbon-22 was labeled simply as "Freon," the consumer would likely miss the important distinction between the use of a class I CFC and a less harmful class II HCFC. EPA proposes that only the following two commonly used acronyms be permitted as substitutes for the standard chemical name on the label: "CFC" for

chlorofluorocarbon; and "HCFC" for hydrochlorofluorocarbon. EPA believes that, unlike trade names or abbreviations, these acronyms describe the relevant chemicals in a way that they can be recognized by the average consumer. In addition, EPA proposes that only the common commercial term "1,1,1-trichloroethane," and no other chemical names or abbreviations, may be substituted for "methyl chloroform" in the required warning statement.

Second, EPA proposes that in the case of a single container of, or product containing or manufactured with, more than one controlled substance, a separate label for each ozone-depleting substance not be required. Instead, the warning label may include the names of all of the substances relevant to the container or product in a single warning statement, provided that the combined statement accurately reflects and clearly distinguishes which substances the container or product contains and which were used in the manufacturing process. For example, a product which contains both CFC–12 and CFC–113 would be permitted to bear one combined label stating: "Warning: Contains CFCs-12 and -113, substances which harm public health * * *" Similarly, a single product which both contains and is manufactured with ozone-depleting substances could bear one label that combines the required warning statements. For example, the label on a refrigerator which uses CFC–12 as a refrigerant, CFC–11 in its closed cell insulating foam and has a coating applied with methyl chloroform as a solvent could state: "Warning: Contains CFC–12 and CFC–11, and manufactured with methyl chloroform, substances which harm public health * * *"

In addition, if a manufacturer uses two or more controlled substances interchangeably in a product, such as using either CFC–113 or methyl chloroform to clean a metal part, the product's label could incorporate the phrase "Manufactured with CFC–113 and/or methyl chloroform * * *" into its statement. However, EPA proposes that under no circumstances could a product's label state "May have been manufactured with" or any other such statement which makes the presence or use of a controlled substance uncertain. Moreover, a manufacturer may not present two or more controlled substances as having been used interchangeably when, in fact, they have not.

The purpose of this proposed clarification is to prevent cluttering of a product's display areas with warnings that may be duplicative, and to facilitate industry's compliance with the labeling requirement. The Agency does not propose to mandate that companies combine the warnings required by Section 611 as demonstrated above. Companies that are currently switching out of ozone-depleting substances might wish to keep their warning statements separate in order to facilitate the labeling of their new products which may have either fewer ozone-depleting substances or none at all. The combining of required warning statements described in this part is proposed as an approach for companies to utilize where they find it useful.

EPA today proposes that, except as specified in this subpart under the authority of Section 301(a)(1), the text of the required label may not in any way be shortened, altered or abbreviated. As stated above, Section 611 is very specific about the text of the required labels. A container or product whose label contained any changes to the required text, apart from those discussed above, would be considered by EPA to be mislabeled and out of compliance.

2. Placement and Form of Warning Label

Section 611 requires that products and containers bear a warning label that is "clearly legible and conspicuous." The Agency interprets the intent of this requirement is to ensure that the label is noticed by consumers at the time of their decision to purchase, in order to enable them to make informed choices about products. However, the Agency requests comment on whether the intent of the statute would be satisfied if the Agency simply required that the label be noticeable or readily available to the consumer at the time of the purchase decision. EPA today proposes regulations that would require the warning label to appear with such prominence and conspicuousness as to render it likely to be read and understood by consumers under normal conditions of purchase.

EPA's primary reason for proposing to require that the warning "appear with such prominence and conspicuousness as to render it likely to be read and understood by consumers under normal conditions of purchase" is that the warning statement required by Section 611 is only relevant to the consumer before the product is purchased. The long-lived nature of these substances virtually ensures that whatever substances are manufactured will eventually be released to the atmosphere, where they will contribute the chlorine and bromine which destroys the ozone layer. Only by expressing their preference at the point of purchase for products that do not use ozone-depleting substances can the consumer make use of the information required by section 611.

The Agency believes that there may be several placement options with which manufacturers could fulfill the statutory labeling requirement of "clearly legible and conspicuous." EPA recognizes that some options will have higher opportunity costs for certain products or manufacturers (*e.g.*, utilizing prime space on a product's principal display panel) relative to other options. Alternatively, options with lower opportunity costs (*e.g.*, placing the label on a less prominent display panel) may run the risk of not fulfilling the statutory requirement for being "clearly legible and conspicuous." Proposed placement options are discussed in the subparts below.

Today's proposal builds on the labeling experience of EPA (in particular, the Agency's Pesticide Programs) and other federal agencies (most notably the Food and Drug Administration (FDA) and the Consumer Product Safety Commission (CPSC)), and endeavors to coordinate efforts with these programs in order to prevent any obscuring or interference with other labeling requirements.

a. *Display panel placement.* EPA proposes to require that the warning label be placed on any display panel of a product or container where the label will be "clearly legible and conspicuous." Producers and manufacturers have the responsibility to ensure placement such that the proposed requirements are satisfied. EPA believes that label placement on the principal display panel (PDP), where it exists, will clearly satisfy the requirement. Location on other label space or parts of the container, however, might also satisfy the "clearly legible and conspicuous" criteria in some cases. In the 1970s, CPSC and FDA developed label area and type size requirements for the "principal display panel" of products regulated by the Federal Hazardous Substances Act and of cosmetics and over-the-counter drugs. The principal display panel (PDP), as opposed to other display panels, is considered to be the part of a product or container that is "most likely to be displayed, presented, shown, or examined under customary conditions of retail sale" (49 FR 50374). The labeling mechanism used by CPSC and FDA requires the placement of the warning on the PDP and specifies type sizes for the warning over a range of products.

According to CPSC, these requirements for placement and type

size were intended to ensure that the warning would be adequately "conspicuous and legible" to consumers at the time of purchase (49 FR 50374). By allowing the warning to appear anywhere on the PDP, the CPSC mechanism also allows manufacturers a degree of flexibility in fulfilling the labeling requirement and coordinating with other labeling requirements. EPA believes that the placement of the label on the PDP would fulfill the statutory requirement for "conspicuous and legible" labeling under § 611.

CPSC did not utilize the PDP mechanism when promulgating regulations in 1977 for the labeling of aerosol products containing CFCs. Instead, this program set the general placement requirement that all labels "shall be sufficiently prominent and conspicuous as to be likely to be read and understood by ordinary individuals under normal conditions of purchase" (16 CFR Ch.11 Part 1401) and the exact location was left to the discretion of the manufacturer. As a result, some manufacturers responded to this general requirement by placing the CPSC warning on the side or back panels of their aerosol products.

EPA believes that placing the warning on a display panel other than the principal display panel may not be the best option to meet the goals of § 611. To the extent that the scientific and international communities have come to agreement on the seriousness and urgency of the stratospheric ozone depletion problem, the Agency believes that the information provided by the label is even more relevant to consumer purchase decisions than it may have been at the time of the 1977 regulations. In addition, EPA believes that the extent to which claims such as "ozone-friendly" already appear on the PDPs of the many products indicates that manufacturers and consumers generally consider such information to be relevant enough to warrant placement on the principal display panel, where it is most likely to be noted. (See part IV below.)

However, other regulations, such as those implementing the Comprehensive Smokeless Tobacco Health Education Act of 1986 (16 CFR ch. 1 part 307), set specific placement standards to fulfill the requirement that the warning label, which reads "warning: this product may cause mouth cancer, "must be in a conspicuous and prominent place" that were not solely limited to the principal or front panel. Section 307.6(a) of that regulation defines a conspicuous and prominent place as "a part of a label that is likely to be displayed, presented, shown or examined," specifies what places would be considered to be conspicuous and prominent for each type container ("Cylindrical can—Side of the package; Pouch—Front of the package * * *; Rectangular box * * *— Any side of the package"), and sensibly concludes that "the warning statement shall not be deemed to be in a conspicuous and legible place if it appears on the bottom."

EPA today proposes that the warning label required by section 611 may be placed anywhere on any display panel that fulfills the requirements specified in today's notice, as long as it does not interfere with, mar, or detract from any other legally required labeling statements on the product or container and as long as no other labels interfere with, mar, or detract from it. (See subpart III.A.2.d. below.) In order to be clearly legible and conspicuous to a potential purchaser, the warning label would be required to be placed on any outer packaging or wrapper used in the retail display of the product, unless it were visible through such packaging or alternative placement were used. (See subpart III.A.2.c. below.)

EPA requests comment on the potential costs and benefits of requiring labeling on the principal display panel, as opposed to those that would be incurred by allowing it to appear on other display panels. Potential costs or disadvantages might include the opportunity cost of utilizing prominent label space, which will not then be available for other manufacturer information and the potential discriminatory nature of a PDP labeling requirement, when some products have a PDP and others do not. The Agency also requests comment on the lack of statutory direction on label location and whether this might suggest that a PDP requirement would be inappropriate. EPA also requests comment on whether it should explicitly require that the warning specified by section 611 appear on a product's principal display panel, if feasible.

Some products containing or manufactured with ozone-depleting substances (nuts and bolts, for example) may not have display panels that can be labeled. Guidelines for alternative label placement on products without display panels are presented below in subpart III.A.3.

b. *Type-size requirements.* EPA believes that the type size of the warning label on a specific product should be flexible to match the size of the product or container. The area of the display panel can be used to determine the appropriate type size of the warning label based upon the shape of the product or container. For example, in the case of a rectangular package where one entire side is the display panel, the area would be the product of the height times the width of that side. In the case of a cylindrical or nearly cylindrical container or product, the area of the display panel would be calculated, following CPSC's requirements under the Federal Hazardous Substances Act (16 CFR 1500.121), as 40 percent of the surface area of the product (the height of the product or container times its circumference). In the case of any other shape of container or product, the area of the display panel would be 40 percent of the total surface, excluding those areas such as flanges at tops and bottoms, shoulders, handles or necks. However, if an irregularly shaped product or container presents an obvious display panel (such as an oval or hourglass shaped area on the side of a container) the area to be measured would be the entire area of the obvious display panel. In any case, the area of the display panel for the purpose of determining the type size would not be limited to the portion of the surface already covered with labels; rather it would include the entire surface excluding any flanges, shoulders, handles or necks.

The phrase "type size" refers to the height of the actual printed image of each letter as it appears on the label. The ratio of the height of the letter to its width should be such that the height of the letter is no more than three times its width. EPA today proposes that, because a larger type size can materially enhance the legibility of the statement and is desirable, the size of the warning label should be reasonably related to the type size of any other printing appearing in the same panel, but in any case the type size must meet the minimum size requirement in table 1.

Table 1 specifies two type sizes: One for the signal word ("Warning") and one for the rest of the label statement. EPA proposes that, following CPSC's labeling requirements under the Federal Hazardous Substances Act (16 CFR 1500.121), the signal word "Warning" should appear larger than the rest of the label statement as specified above and in all capital letters.

TABLE 1

Area of panel (sq. in.)	0–2	>2–5	>5–10	>10–15	>15–30	>30
Type size (in.):*						
Signal word	3/64	1/16	3/32	7/64	1/8	5/32
Statement	3/64	3/64	1/16	3/32	3/32	7/64

>Means greater than.
*Minimum height of printed image of letters.

EPA believes that, in many situations, a product whose display panel has an area of two square inches or less would be too small to bear a "clearly legible and conspicuous" warning label and strongly encourages manufacturers of such products to follow the "alternative placement" labeling guidelines described in subpart III.A.3. below. EPA proposes that, in any case, the warning label must be clearly legible and conspicuous under customary conditions of retail sale.

The area of the display panel and type size requirements are specified above in Table 1 using English units (inches), following the regulations developed by CPSC (16 CFR 1500.121). EPA could instead specify size requirements using metric units (centimeters and millimeters) or type units (points). Dealing with small fractions of an inch may be difficult for some manufacturers. In addition, metric units are the international standard and the labeling requirement applies to containers and products imported into the United States. EPA requests comment specifically on the use of English measurement units to specify area and type size requirements and generally on the placement and type size requirements proposed in this subpart.

c. *Other general placement and form requirements.* EPA proposes three other general requirements for the placement and form of warning labels under section 611. Each of these general requirements is drawn from the labeling regulations developed by CPSC (16 CFR 1500.121), and together they are intended to ensure that the warning statement is "clearly conspicuous and legible" as specified by section 611.

First, EPA proposes that the required warning label must appear in lines that are generally parallel to any base on which the product or container rests as it is designed to be displayed for sale. EPA believes that a label that is not generally parallel to the base of the product would be unnecessarily difficult for a consumer to read.

Second, while no specific color or color combination is required for the label, EPA proposes that the warning statement must be in sharp contrast to any background upon which it appears. Consistent with CPSC's regulations, examples of combinations of colors which may not satisfy the proposed requirement for sharp contrast are: Black letters on a dark blue or dark green background, dark red letters on a light red background, light red letters on a reflective silver background, and white letters on a light gray or tan background. EPA believes that a warning statement that is not in sharp contrast to its background would also be unnecessarily difficult for a consumer to read.

Third, EPA proposes that the warning statement on the product or container appear on any outer packaging or wrapping used in the retail display of the product or container, in the same manner as required for the immediate product or container. Clearly, a warning statement that is not clearly legible and conspicuous through any outer package would fail to fulfill the statutory requirement that the label be legible and conspicuous.

However, a warning statement on the immediate product or container that is clearly legible and conspicuous through any outer packaging or wrapping used in retail display need not also appear on the outer container or wrapping itself.

The label would not need to appear in more than one place on the product and would only need to be presented to the consumer once at the time of the purchase decision.

EPA requests comment on its proposed general placement and form requirements, as well as on the specific location, positioning and size of the label.

d. *Interference with other label information.* The Agency recognizes the importance of preventing any interference with existing label information on the display panel of the product or container. This other label information might include warnings required by EPA under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Department of Transportation's hazardous materials transport labeling, CPSC's requirements under the Federal Hazardous Substances Act, the Federal Trade Commission's regulations regarding the energy efficiency of appliances, or FDA's over-the-counter drug labels. In addition, there may be state or local labeling requirements that apply to containers of or products containing or manufactured with ozone-depleting substances. EPA believes that the labeling required by section 611 is important as well and, therefore, no other labels should interfere with it.

EPA recognizes that some product labels may be required to bear multiple warnings regarding their purchase, use, storage or disposal. By permitting the required warning statement to appear anywhere on the product's appropriate display panel, the proposed placement mechanism is intended to provide manufacturers with the flexibility needed to ensure that other labeling information is not crowded. Based upon its work with the Federal Trade Commission on the Interagency Labeling Task Force, EPA believes that on many products the display panels currently contain labeling statements that are not necessarily required by any federal or state regulations. Included in these are statements such as "environmentally-friendly" and "ozone-safe."

EPA believes that most products' "principal display panels" (PDPs) are generally large enough to accommodate all the label information required to be placed thereon with clarity and conspicuousness and without obscuring or crowding designs or vignettes. EPA also believes that the warning required by section 611 will not distract consumers from noticing other warnings on the PDP, such as those required by CPSC under the Federal Hazardous Substances Act. However, EPA proposes to explicitly require that the warning label under section 611 not interfere with, mar or detract from the statements, designs or vignettes of any other labels required by federal or state law, and that the required warning label shall not be interfered with, marred or detracted from by any other labeling information. EPA requests comment on its proposal that the warning required by section 611 not interfere with, and not be interfered with by, any other required warning statements.

3. Products Without Display Panels

EPA recognizes that placing the warning label on a display panel may not be feasible for some of the products affected by section 611. A product, for example, may be extremely small or irregularly shaped such that placement on a display panel is not feasible. Alternatively, the product may be normally purchased without actually being viewed by the consumer. Products that might fit this second situation include home insulation containing CFCs, chillers containing CFCs, or total flooding fire extinguisher systems containing halons. Other products, as well, due to their nature of use or purchase conditions, may not have an obvious display panel as described in subpart III.A.2.a. above.

EPA believes that the intent of the labeling requirement under section 611 is to ensure that information is made available to the consumer at the time of purchase decision. Since all products manufactured with or containing ozone-depleting substances are required by section 611 to bear a warning label regardless of whether they have an obvious display panel, EPA has developed alternative placement guidelines apart from the display panel mechanism for conveying the required labeling information to the potential purchaser at the time a purchase decision is made.

In cases where a product has any display panel which is normally viewed by the purchaser at the time of the purchase decision, EPA proposes to require that the warning label appear on a display panel, or on any outer packaging or wrapping used in the retail display of the product. In cases where a product does not have a display panel, or in cases where the consumer is likely to make a purchase decision without seeing the actual product, EPA proposes to require that the labeling information must be made available to the consumer through another means in order to facilitate an informed purchase decision.

In this subpart, EPA gives examples of products that may not have a clear PDP and proposes a clarification of the labeling requirements for these products.

a. *Examples of products without display panels.* Labeling on the display panel might not be feasible for products that are extremely small or irregularly shaped. In addition, some products may not have any immediate surface or outer packaging that lends itself easily to labeling. Examples of this type of product might include certain foam products, nuts and bolts, and small electronic or aerosol products.

A second type of product that does not have a display panel is a "room-sized system" that is generally purchased without actually being seen under normal purchasing conditions, such as home insulation, central air-conditioning, fire extinguisher systems, process refrigeration, cold storage systems, and very large items such as airplanes or commercial trucks. Noncommercial cars and trucks, on the other hand, are often viewed by a purchaser under normal retail purchasing conditions, and usually have a label in the form of a "sticker" with the included options, price of the vehicle, and estimated fuel efficiency. Other products such as portable fire extinguishers are also likely to be viewed by a purchaser under normal purchasing conditions. As such, these products would be considered by EPA to have display panels and would be required to follow the specifications in subpart III.A.2.a. above.

Another type of product that may be purchased without actually being viewed is a component that is incorporated into a larger product which is then intended for sale. For example, a computer manufacturer may purchase electronic circuit boards from a separate supplier, or a car manufacturer may purchase nuts and bolts, that are then incorporated into their products for sale to their ultimate consumers. For this type of product as well, the purchase decision by the ultimate consumer may be made without the product actually being seen.

b. *Options for labeling.* EPA has proposed that the display panel mechanism specified in subpart III.A.2.a. be used wherever possible. For those cases where it is not possible to use a display panel, as described above, EPA proposes that guidelines for determining other reasonable means to communicate the labeling information to the purchaser at the time of the purchase decision must be employed. EPA wants to reiterate that the responsibility to place the label in a legible and conspicuous place lies with the manufacturer.

Where a product is unable to follow the display panel mechanism because, although it is normally viewed by the purchaser at the time of the purchase decision, it is extremely small or irregularly shaped such that placement on the principal display panel is not feasible or it has neither a surface that lends itself easily to labeling nor any outer packaging used in retail display, EPA proposes that the warning label may appear on a hang tag, tape, card, sticker, or similar overlabeling that is securely attached to the container or product.

Another acceptable alternative labeling mechanism for small or irregularly shaped products is to place the warning on the display case or packaging in which the product is sold. A bin of nuts and bolts in a hardware store, using this alternative, would be required to bear the warning label. In this scenario, the nuts and bolts might arrive at the retailer in bulk with an accompanying informational flyer, invoice or bill of lading carrying the necessary labeling information. When displayed by the retailer in the store, a sign must be affixed to the container holding the products that would communicate the required labeling information to the potential purchaser. In any case, EPA proposes that the warning label must be clearly legible and conspicuous under customary conditions of retail sale.

Products that cannot follow the display panel mechanism because they are not normally viewed at the point of purchase decision would be required by EPA to include the warning label with supplemental printed materials for display or distribution prepared by the manufacturer concerning the product. The phrase "supplemental printed materials" is considered by EPA to mean any written, printed or graphic informational or promotional material concerning a product that is prepared by the manufacturer itself, including brochures, written advertisements, circulars, package inserts, desk references, fact sheets, material safety data sheets, and procurement or specification sheets.

The proposed requirement would not include catalogs or any other material prepared by any person other than the manufacturer, such as a distributor or retailer. However, a distributor or retailer would be required to pass on to the consumer prior to purchase any supplemental printed material including the required warning statement that is provided to the distributor by the manufacturer.

Many Federal labeling regulations require informational or promotional materials to include the required labeling, including CPSC's labels under the Federal Hazardous Substances Act, FTC's appliance energy-use labels and home insulation fact sheets, FDA's over-the-counter drug labels and EPA's pesticide labels under FIFRA. For home insulation and other products whose informational or promotional printed materials are currently regulated, EPA proposes that the labeling information be incorporated into existing materials and fact sheets to the best extent possible without marring, interfering or

detracting from the other existing labeling requirements.

For components purchased on specification by a manufacturer, the contract with the supplier could be used as specified below in section III.A.4.b. to establish whether ozone-depleting substances are to be used, and if so, which ones. Following the contractual specification, shipments of the components would arrive at the manufacturer's plant or warehouse and the invoice, bill of lading, or other supplemental printed materials accompanying the component would contain any labeling information required under section 611. When the manufacturer then introduced the final product incorporating the component into interstate commerce, it would be required to include the warning on the product's display panel.

Under this option, the information about the component products would be available to the purchaser (in this case, a manufacturer) at the point of purchase decision (developing specifications for a contract). If the contract specified the use of an ozone-depleting substance, the invoice of the component product would bear the relevant labeling information, which would be passed along to the ultimate consumer of the manufacturer's final product. (See discussion on stream of commerce in subpart III.A.4. below.)

EPA believes that as proposed above, including the warning with the supplemental printed materials (*e.g.*, contracts, marketing brochures, material safety data sheets, *etc.*) of products which lack the normally visible display panels would be a reasonable means of providing consumers with the labeling information at the point of purchase decision and would be of minimal burden to manufacturers. EPA requests comment on its proposed labeling requirement for supplemental printed materials.

Due to the nature of their use and purchasing conditions, prescription drugs such as metered dose inhalers (MDIs) could also merit some alternative labeling option. MDIs are small aerosol devices which may contain CFCs that are used to deliver medicine directly to the lungs of patients with asthma or other pulmonary diseases. MDIs were exempted from the labeling required by FDA for aerosols containing CFCs.

Section 611 requires labeling of all containers of and products containing class I substances and includes no provisions for waivers. Further, section 611 does not make any distinction regarding medical products, while other sections of title VI explicitly provide for exemptions from regulation for such products. Therefore, EPA is not proposing an exemption for prescription drugs in this notice. However, EPA specifically requests comment on the need for special labeling options for prescription medical products.

EPA generally requests comment on the prevalence of products without display panels and the extent to which the alternative labeling options proposed in this subpart are feasible for these products and fulfill the requirements of section 611.

4. Stream of Commerce

Section 611 states that no affected product or container shall be "introduced into interstate commerce" unless it bears a specified warning label. EPA today proposes that the labeling requirement begins at the point of introduction into interstate commerce and flows through the entire stream of commerce up to and including the point of sale to the ultimate consumer.

a. *Requirements.* The two entry points into interstate commerce generally recognized by EPA are the warehouse from which a domestic manufacturer releases the product or container for shipment and the site of customs clearance for imported products or containers. At both of these entry points a product or container must bear the specified warning label. In addition, a product or container that is repackaged or incorporated into another product for resale or shipment will be considered to be introduced into interstate commerce as a new product. For example, the label at retail sale of a finished product such as a computer with several potentially solvent-cleaned components would have to bear the warning information of all incorporated components manufactured with a class I substance. (See subparts III.A.4.b. and III.C.2.b. below for a more in-depth discussion of solvent-cleaned products and other products manufactured with class I substances.)

EPA believes that the labeling information accompanying a product when it is introduced into interstate commerce must be passed through the stream of commerce to the point of sale to the ultimate consumer in order for the labeling requirement in section 611 to be meaningful. As stated above, the phrase "ultimate consumer" in today's notice refers to the first purchaser for commercial or personal use of a container or product that is not intended for re-introduction into interstate commerce. An example of a purchaser that is not the ultimate consumer of a product would be a manufacturer that purchases components from another manufacturer and incorporates them into a larger product. EPA believes that all consumers should benefit from the labeling information required by section 611 and that for the labeling requirement to be meaningful it is especially important that the labeling information be passed on through the stream of commerce to the ultimate consumer and thus facilitate the making of an informed purchase decision.

If, on the other hand, the manufacturer of a final product that contained a component manufactured with a process that used a class I substance were not obliged to pass on the component's labeling information with the final product, the ultimate consumer of the product would have no way of knowing that a component within the product was manufactured with a class I substance and could not make an informed choice about that product, nor would there be any incentive for the manufacturer to switch to a component that was not manufactured with an ozone-depleting substance. Thus, EPA believes that the labeling information must be carried through to the ultimate purchaser in order to fulfill the intent of section 611. EPA today proposes that the labeling information from any class I product that is repackaged or incorporated into another product must be carried through to the ultimate consumer and that the defacing or removal of a label by anyone other than ultimate consumer would be considered a violation of the regulations implementing section 611. EPA requests comment on its interpretation of the phrase "introduced into interstate commerce."

EPA is aware of the possible concerns of industry regarding the burden of determining if incorporated components were made with a class I substance and therefore their final products would be required to bear a warning label. Some complex finished products, such as computers, refrigerators and cars, can incorporate hundreds of different components that may or may not contain or have been manufactured with a class I substance. A benefit of the requirement to pass the labeling through the stream of commerce is that the manufacturer would be able to rely on the labeling information from its suppliers that it receives with the component, as long as the manufacturer reasonably believes that the information is correct. The manufacturer would then be required to pass on any labeling information that it received when it re-introduces the product into the stream of commerce. There would be no need for the manufacturer to independently investigate whether a component from a supplier, for example, was or was not

manufactured with a class I substance, as long as the manufacturer reasonably believed that the supplier was reliably and accurately labeling any components manufactured with a class I substance. However, a manufacturer would not be able to rely on the reasonable belief defense when EPA can show that the manufacturers had actual knowledge or took affirmative steps to be shielded from the relevant information. EPA requests comment on the impacts of passing the required labeling information through the stream of commerce to the ultimate consumer and on EPA's definition of stream of commerce.

b. *Solvent-cleaned products.* EPA believes that labeling can pose a particular challenge for solvent-cleaned products. In this subpart, EPA discusses the impact of the labeling requirement through the stream of commerce on products solvent-cleaned with class I substances and proposes options for industry to minimize the burden of the requirement.

Many final products, especially electronics, incorporate one or more (and often several) different components that may have been cleaned with a class I solvent (CFC–113 or methyl chloroform). These components can be manufactured in-house, but are often purchased either from domestic suppliers or importers. As a result, a single consumer product such as a computer may incorporate hundreds of components from potentially different sources that may or may not have been cleaned or otherwise manufactured with a class I substance. As discussed above, if any components are manufactured with class I substances then the final consumer product would be required to pass the labeling information from those incorporated components through to the ultimate purchaser of the product.

Due to the nature of the cleaning process, determining whether a given product has or has not been cleaned with a class I solvent can be difficult. The "pass-through" labeling requirement proposed above in subpart III.A.4.a. is intended to relieve manufacturers of the need to independently perform such an investigation. Provided that the manufacturer reasonably believes that the supplier is reliably and accurately following the labeling requirement (products introduced into interstate commerce, including imported products, that contain or have been manufactured with a class I substance must bear the warning label), the manufacturer can rely on the labeling information that it receives from its suppliers with the components and is only required to pass on the labeling information when it re-introduces the product into the stream of commerce. Thus, the manufacturers of final products incorporating components that have been manufactured with a class I substance need only pass the labeling information received with the components through the stream of commerce to the ultimate consumer.

An alternative response to the labeling requirement by solvent users could be to place the "Warning: Manufactured with * * *" label on all products incorporating components that may have been manufactured with one class I substance. In this way, if any components within a given product might have been cleaned with that class I substance, the labeling requirement has been fulfilled. Because the information passed on to the consumer may not be fully accurate, EPA does not recommend this response as a labeling option. However, EPA recognizes that this option may be efficient for a manufacturer whose product utilizes several components that may have been manufactured with a given class I substance, and where the manufacturer is fairly confident that at least one component was actually manufactured with that class I substance.

The manufacturer in this example could avoid any potential administrative costs of separately tracking components by placing the warning label on every product incorporating components that may have been manufactured with a class I substance. However, the text of the warning label may not in any situation state that the product "may have been manufactured with"; the label must include the required text of "Warning: Manufactured with * * *" in order to fulfill the requirement. The clear disadvantage of this option is that consumers could wrongfully perceive the product and its manufacturer as posing a threat to the ozone layer in those cases where it had not actually been manufactured with a class I substance.

EPA believes that existing systems that track pertinent information of components through their manufacturing processes can in many cases be modified in a way that utilizes the passthrough requirement to ensure that final products are correctly labeled. However, EPA below outlines additional options to reduce the burden for those companies that may have difficulty tracking all of the components in their products that may have been manufactured with a class I substance.

Instead of tracking products, manufacturers could use contract specifications (*i.e,* to state in their contract that supplied components were not to be manufactured with any class I substance) in order to ensure that their final product does not need to bear the warning label. (See discussion in subpart III.A.3. above regarding the labeling of components and other products without display panels.) As long as the manufacturer reasonably believes that the terms of the contract were complied with, the manufacturer may rely on contract specifications to ensure that purchased components do not contain nor were manufactured with a class I ozone-depleting substance and, therefore, the manufacturer's final product would not require a warning label.

Utilizing this option, the manufacturer would avoid both the costs of tracking components and of labeling by ensuring that the incorporated components are not manufactured with a class I substance. In addition, the contracts would provide a straightforward method of monitoring compliance. However, the responsibility to carry through the labeling requirement remains. If, for example, the contract is breached because a class I substance is used to clean the components, the component manufacturer must label the component accordingly and the final product manufacturer must pass along the label information.

EPA strongly urges manufacturers who can do so to find and use alternatives to class I substances for their products to avoid labeling under section 611. In fact, EPA anticipates that the use of class I substances in the manufacturing process of many products will cease in the near future, particularly in the area of solvent use. The scarcity of class I substances created by the phaseout, and the increasing costs added by the federal excise tax, are already providing a continuing incentive for manufacturers to use alternatives wherever possible.

The final option available to companies whose products are manufactured with a class I substance is to submit a petition to EPA to exempt their product from the labeling requirement. Section 611(d)(2) provides that products manufactured with a class I substance may not be required to bear the warning if they do not have currently or potentially available substitute products or manufacturing processes that reduce the overall risk to human health and the environment. (See subpart III.C. below for a discussion of the petition process.) EPA proposes to review petitions to exempt products manufactured with a class I substance in conformity with the provisions of

section 611 and proposed requirements specified in today's notice. However, until any such petition is approved in a final form after notice and comment, the product will be required to bear the specified warning label.

5. Symbol

EPA is considering, but is not proposing at this time, requirement of a symbol to accompany the warning text. Comment is being requested on the appropriateness of a symbol requirement and on several related issues, including the marginal benefits of the symbol in terms of reduced ozone depletion. EPA does believe that there may be benefits to the symbol and is interested in public comment.

Studies by the Federal Trade Commission and other experts strongly suggest that a symbol (*e.g.*, a pictogram or shape) accompanying a warning statement can greatly increase recognition and comprehension of signs and labels beyond that of the statement alone. Studies concerning the effectiveness of symbols reviewed by the Department of Commerce in The Development of Effective Symbol Signs (1982) indicate that, because their message can easily be taken in at a glance, symbol signs are more likely to draw attention and communicate information than word-only signs. Other studies have shown that graphic formats on consumer product labels can greatly increase the quality of purchase decisions. (See reference Rudd.) EPA believes that a symbol accompanying the warning statement required by section 611, in conjunction with a public outreach program, could aid consumers in noticing, understanding, and remembering the warning label and in making an informed decision at the point of purchase.

EPA believes that the primary purpose of the labeling requirement under section 611 is to promote a more informed purchase decision by consumers regarding products using ozone-depleting substances. To the extent that a symbol makes the label more noticeable and understandable, it would aid consumers in making this decision. EPA believes that a symbol which increases consumer understanding and recognition of the warning statement could further facilitate the expression of consumers' potential preference for products that do not use any ozone depleting substances.

A 1981 FTC report on the impact of cigarette warnings on consumers plainly states that "pictures are better remembered than words" and suggests that a change in the basic shape of the warning "would substantially improve its effectiveness." Hundreds of studies concerning symbol effectiveness reviewed in the 1982 Department of Commerce report arrived at the same conclusions (see reference). In general, the studies suggested that symbols create a direct and immediate impact on the consumer and thus can be recognized significantly more rapidly and more accurately than signs and labels using only words, particularly under short or difficult viewing conditions.

An important consideration in proposing a pictogram or shape as part of the warning labels required by section 611 is cost. EPA believes that any significant additional costs to the manufacturer in adding a symbol to the required label would have to be weighed against the benefits of the symbol in terms of consumer comprehension and, ultimately, greater protection of stratospheric ozone.

In their 1981 report on cigarette warning labels, FTC staff concluded that the only potential cost to the manufacturer of changing the graphics of the label would be "the increased advertising space occupied by a warning." The research done by EPA for the economic analysis accompanying this proposed rulemaking indicated that the costs of printing labels depends significantly more on the number of colors in the label than on the complexity of the design. The 1982 Commerce report makes several recommendations for the development of an effective symbol. The pictogram presented below as a symbol to accompany the warning statement required by section 611 is intended to fulfill the recommendations made by Commerce for developing effective symbols. EPA has developed an octagon or "stop-sign" shape that could accompany the required warning statement.

Contains Chlorofluorocarbon-11, A substance which harms public health and environment by destroying ozone in the upper atmosphere

EPA believes that this symbol would substantially increase consumer understanding and recognition of the required warning and thus heighten the effectiveness of the label. According to the FTC, the half black and half white octagon shape is one of the two symbols most likely to be noticed and understood by consumers. EPA also believes that the proposed symbol meets the recommendations made by Commerce report for the development of an effective symbol, including a minimum of fine lettering detail within the shape. As a result, EPA believes that the cost to printers and labelers would be minimal, since a change in the

substances named in the text part of the label would not affect the pictogram.

EPA recognizes that section 611 was very specific about the text of the warning label and that a symbol was not mentioned in the statute, but believes that authority for requiring such a symbol may be found under sections 611 and 301(a) because it assists in the fulfillment of the statutory mandate that the warning label be "clearly legible and conspicuous." EPA requests comment on this issue as well as on the potential benefits of the symbol. Given that the economic analysis has found negligible quantitative benefits for the warning label itself, it could be argued that the additional requirement might have no quantifiable benefit, while potentially creating additional costs. On the other hand, the Agency does anticipate significant qualitative benefits from the warning label, that would be increased by the symbol. EPA requests comment on any additional administrative and printing costs that could be incurred if the symbol were required, as well as on whether there would be quantifiable opportunity costs associated with the additional space occupied by the symbol on the label and whether these are justified in light of the qualitative benefits of the warning label. EPA also requests comment on the extent to which a symbol would increase the effectiveness of the warning statement and the appropriateness of requiring this or any symbol to accompany the mandatory warning statement.

B. Recoverable Substances Label

EPA also today proposes to require a permanent label on all products containing a class I or class II substance that can be recovered or recycled, pursuant to Section 608 of the Clean Air Act, as amended. The intent of this proposed labeling requirement is to clarify for servicers and recyclers in a consistent manner what ozone-depleting substance is contained in the product, and to assist them in the recovery or recycling of the substance through proper information.

1. Authority Under Section 608

Section 608(a)(3) requires EPA to promulgate regulations that "(A) reduce use and emission of (ozone-depleting) substances to the lowest achievable level and (B) maximize the recapture and recycling of such substances." EPA will propose regulations to implement the emissions reduction and recycling requirements of Section 608. However, EPA also believes that permanently labeling products containing recoverable class I and class II ozone-depleting substances would be an effective way to inform servicers and disposers. As a result, proposed requirements for a consistent recoverable substances label have been included in today's notice.

Nearly all products containing recoverable class I and class II substances, including home refrigerators, portable fire extinguishers and car air-conditioners, already have such a permanent label indicating which controlled substance is used. EPA proposes that, to the extent that they provide the information specified in this subpart, these existing labels may be considered to fulfill the recoverable substances labeling requirement.

2. Benefits of Recovery and Recycling

Recovery and recycling of class I and class II substances can yield significant benefits, including both economic and environmental benefits. Formal cost and benefit analyses have been prepared for the proposed rulemakings to implement the recovery and recycling requirements of Sections 608 (emissions reduction) and 609 (mobile air-conditioners). This subpart qualitatively discusses the potential benefits of recycling class I and class II substances. Subpart III.B.3. below discusses the additional benefits of a recoverable substances label. Further discussion on the costs and benefits of the recoverable substances label can be found in the economic analysis accompanying this proposed rulemaking.

Quantifiable economic benefits can result from recovery and recycling when they enable owners of equipment using class I or class II substances to continue using that equipment during and after the decreasing production of the substances under the phaseout would have otherwise forced them to prematurely retire or retrofit their equipment.

Recovery and recycling can also have environmental benefits when they meet the demand for class I or class II substances that would have otherwise been met through additional production of virgin substances. To the extent that they can take the place of virgin ozone-depleting substances, recovered and recycled chemicals can reduce overall production, and therefore ultimately emissions, of harmful ozone-depleting substances. Recovery and recycling can have an additional environmental benefit if destruction technology becomes more widely used in the future.

3. Additional Costs and Benefits of Labeling Products Containing Recoverable Substances

Due to the importance of knowing what recoverable substance is contained within a product in order to properly recover or recycle, EPA believes that a permanent label clearly stating this information would facilitate effective recycling at service and disposal. As mentioned above, nearly all products containing recoverable substances already bear a permanent label that provides some or all of the information EPA proposes to require. EPA believes that the costs of slightly altering the text of an existing label on future equipment so that it would be consistent with today's proposed requirements would be minimal. (See economic analysis accompanying this proposed regulation.)

EPA believes that there could be significant benefits from the recoverable substances labeling requirement. By clearly stating which substance is contained within a product, the recoverable substances label could facilitate proper handling of the products. Improperly mixing recovered and recycled substances would ruin the class I or class II substance, thus possibly requiring additional virgin production, or if unknowingly reused it could damage products and invalidate warranties. The recoverable substances label would ensure that servicers and disposers are certain which substance is contained within the product and thus prevent potential confusion that might occur as products switch out of ozone-depleting substances to substitutes.

An additional option would be to require the recoverable substances label to state: "Federal law prohibits venting and may require proper recovery or recycling by certified technicians." This more detailed recoverable substances label could also aid the Agency in its compliance and enforcement efforts by providing a clear reminder to the service person that EPA's regulations prohibit venting and require proper recovery or recycling of class I and class II substances. A person who might be unaware of EPA's regulations would be informed by the recoverable substances label that federal law prohibits venting. This could both prevent potential harm to the environment from the venting and reduce the efforts needed to monitor compliance by alerting potential unknowing violators of EPA's regulations. In addition, a person who intentionally vented a class I or class II substance would be hard pressed to claim that they were unaware of EPA's regulations if a permanent label on the product clearly states that federal law prohibits venting.

Under EPA's program to implement the recovery and recycling requirements of Section 608, EPA may require certification of technicians that service

and dispose of products that contain recoverable ozone-depleting substances to ensure that they are aware of the prohibition on venting and EPA's specific regulations on recovery and recycling. As such, EPA believes that it may not be necessary to include the additional text discussed in the preceding paragraph in the recoverable substances labeling requirement and is today proposing to require the simple statement identifying the substance. EPA requests comment on the potential costs and benefits of a simple recoverable substances label requirement and of the additional text regarding the prohibition on venting and EPA's specific regulations.

4. Proposed Labeling Requirements

EPA believes that a recoverable substances label would result in significant benefits at a minimal cost by providing useful information to servicers and disposers and thereby facilitating more effective recovery and recycling. As a result, EPA today proposes that all products containing a recoverable class I or class II substance bear a clearly legible, permanent label stating: "Contains [insert name of substance]."

EPA believes that controlled substances can currently be recovered and recycled from all refrigeration and fire extinguishing products. Thus, EPA proposes that the phrase "product containing recoverable substance" would at a minimum include refrigerators, freezers, dehumidifiers, water coolers, ice machines, air conditioning and heat pump units, and fire extinguishers.

This label would not be required to be conspicuous at the point of sale to the purchaser. Instead, EPA proposes that the label be permanently affixed in a place that is conspicuous to a service person or disposer, such as the back of the product or near the compressor. For example, the recoverable substances label for a home refrigerator might appear on the back plate with the UL Seal, serial number, *et cetera*.

The name of the substance inserted into the recoverable substance label, similar to the warning statement described in part III.A., should be the standard chemical name as listed in the **Federal Register** notice of January 22, 1991 (56 FR 2420). The only authorized modifications would be "CFC" for chlorofluorocarbon, "HCFC" for hydrochlorofluorocarbon, and "1,1,1-trichloroethane" for methyl chloroform. For example, a refrigerator charged with chlorofluorocarbon-12 would bear a label stating: "Contains CFC–12."

Because the recoverable substances label is not specifically intended to inform purchasers, and because the size range of the affected products is relatively narrow, EPA is not today proposing that the recoverable substances label follow the "principal display panel" mechanism for placement and type size or that any symbol accompany the recoverable substances label. Instead, EPA proposes that the recoverable substance label be placed permanently on the product so that it would be conspicuous to a service person or disposer with a minimum type size of 3/32 of an inch.

As stated above, EPA believes that nearly all products containing recoverable class I and class II substances already have a permanent label indicating which controlled substance is used and proposes that, to the extent that they provide the information specified in this subpart, these existing labels may be considered to fulfill the recoverable substances labeling requirement. EPA requests comment on the need for and utility of a permanent recoverable substances label, the extent to which this type of labeling already exists, and EPA's estimates of the potential costs of requiring such a label.

C. Petitions

Section 611(e) states that any person may petition the Agency after May 15, 1992 to apply the labeling requirements of the section to any product containing a class II substance or any product manufactured with a class I or class II substance that is not otherwise subject to the requirements. Section 611(e) also states that any petition of this sort must include a showing by the petitioner that there are data on the product adequate to support the petition. In this part, EPA discusses petitions to add class II products to the labeling requirement and petitions to temporarily [2] exclude products manufactured with a class I substance from the labeling requirement. For both types, EPA proposes procedural requirements for submission and evaluation of petitions and criteria for determining if data included in the petition are adequate.

Determinations regarding both types of petitions would be based primarily on the availability of substitutes that reduce the overall risk to human health and the environment. Sections 611 (c) and (d) specify that EPA should take into consideration both "currently" and "potentially" available substitutes when making such determinations. EPA generally considers "currently available" to mean that the substitute is adequately tested and widely available in commercial quantities. EPA regards "potentially available," on the other hand, as meaning that there is adequate information to make a determination that the substitute is technologically feasible, environmentally acceptable and economically viable. EPA requests comment on its interpretation of the terms "currently available" and "potentially available."

1. Types of Petitions

As stated above, EPA anticipates two possible types of petitions. Section 611(e) explicitly sets out requirements for petitions to add to the labeling requirement products containing class II substances or manufactured with class I or class II substances which are not otherwise subject to them. EPA today also proposes requirements for any petitions to temporarily remove a product manufactured with a class I substance from the labeling requirement. These proposed requirements for petitions to exempt products are, to the furthest extent practicable, parallel to the statutory requirements for petitions to add products to the labeling requirement.

a. *Add class II products to labeling requirement.* Section 611 states that the labeling requirement shall apply to products containing or manufactured with a class II substance if EPA determines that there are substitute products or manufacturing processes: (A) That do not rely on the use of such class I or class II substance, (B) that reduce the overall risk to human health and the environment, and (C) that are currently or potentially available.

EPA is not today proposing that the labeling requirements apply to any products containing or manufactured with class II substances. Instead, EPA proposes a process to implement the statutory requirements for petitions, including procedures for the submission and evaluation of petitions and criteria for determining if data on the product included by the petitioner are adequate. In response to successful petitions, and following any independent determinations made by the Agency regarding the availability of acceptable substitutes, EPA intends to subsequently apply the labeling requirement to specific products containing or manufactured with class II substances.

EPA plans to coordinate its process for petitions to add products to the labeling requirement under section 611

[2] The Agency can only temporarily exclude products manufactured with a class I substance since section 611(e)(5) states that effective January 1, 2015, the labeling requirements shall apply to all products manufactured with a process that uses a class I or class II substance regardless of any petitions or determinations made by the Agency.

with its regulations implementing section 612 (Safe Alternative Program). Section 612 requires EPA to make determinations on the availability of substitutes for class I and class II substances based on criteria identical to those specified by section 611 (see part II.E. above). EPA believes that determinations under section 612 will provide guidance for the evaluation of petitions to add class II products to the labeling requirement under section 611. Thus, in order to maintain consistency between the Labeling and Safe Alternatives programs, EPA today proposes to coordinate with the requirements of section 612 its guidelines and criteria for determining if data included by the petitioner are adequate for class II petitions under section 611.

EPA could potentially receive a petition to re-apply the labeling requirement to a product manufactured with a class I substance that it has temporarily exempted from the requirement. In this case, the petition to re-apply the labeling requirement would need to follow the same procedure that is proposed below for the petitions to temporarily exempt.

b. Temporarily Remove Products Manufactured with Class I Substances From the Labeling Requirement

Section 611 allows a temporary exemption to the labeling requirement for a product manufactured with a class I substance if EPA determines that there are no substitute products or manufacturing processes for such product that (A) do not rely on the use of such class I substance, (B) reduce the overall risk to human health and the environment, and (C) are currently or potentially available. As discussed above in subpart II.B., examples of products manufactured with a class I substance include solvent-cleaned products, open-celled foam products, products using adhesives or coatings with solvents, and certain food and tobacco products.

Products cleaned with the solvents CFC–113 and methyl chloroform represent by far the largest use-sector of products manufactured with a class I substance. According to UNEP's Electronics, Degreasing and Dry Cleaning Solvents Technical Options Report, "There is no single substitute for all uses of CFC–113." However, the report goes on to state that "every use area has one or more available alternative(s) which can be adopted." In addition, the report states that "It is technically feasible to freeze or substantially reduce the production and use of 1,1,1-trichloroethane without affecting a timely phaseout of CFC–113." (See reference, p.4.)

Based upon the findings of this report, and the Agency's own investigation of the availability of substitutes (see economic analysis accompanying this proposed rulemaking), EPA believes that it is unable to make a positive determination for any product manufactured with a class I substance that there are no substitute products or processes at least potentially available that reduce the overall risk to human health and the environment. However, EPA recognizes that the UNEP assessment and its own analysis may not adequately address special situations or unique cases where an exception might be warranted.

EPA does not today propose to make a determination regarding products manufactured with class I substances. EPA was unable to make such a determination in light of the available information and the extremely large number of products. As with petitions to add products to the labeling requirement, EPA instead proposes a process for evaluating petitions to temporarily exempt products manufactured with a class I substance on a case-by-case basis. EPA specifically requests comment and additional information on the availability of substitutes for products manufactured with class I substances. However, commenters requesting specific action by the Agency in the form of a petition should refer to the text below for procedural requirements for the submission and evaluation of petitions.

In subparts III.C.2. and 3. below, EPA proposes procedural requirements for petitions and criteria for determining if data submitted by the petitioner are adequate.

2. Procedural Requirements for Submission and Evaluation

In this subpart, EPA proposes procedural requirements for the submission and evaluation of petitions to add a product containing or manufactured with a class II substance to or temporarily exempt a product manufactured with a class I substance from the labeling requirement under section 611.

Section 611(e)(1) requires EPA to review within 180 days any petition to add a product to the labeling requirement that it receives after May 15, 1992. Parallel to this requirement, EPA proposes the same review period for petitions to temporarily exempt a product from the labeling requirement. This review will likely not include actual technical facility or laboratory testing by the Agency but instead be limited to a critical analysis of the reported test results and associated uncertainty analysis. The 180 day limit will begin once EPA receives an petition that includes data that are adequate, as defined in subpart III.C.3. below. If the petition does not include adequate data, EPA may return the petition to the applicant and request specific additional information.

If the data included in the petition are adequate but EPA determines that the criteria for exempting a product from the labeling requirement have not been met, EPA will notify the petitioner and may, in appropriate circumstances (*e.g.*, when all of the manufacturers in an industry with numerous companies are likely to request exemption for a specific product), publish an explanation of the petition denial in the **Federal Register**. Pursuant to section 611(e)(1), EPA is required to publish an explanation of such a denial of a petition to add a product to the labeling requirement.

If adequate data are included in the petition and EPA makes a tentative decision to grant the petition, EPA will notify the petitioner and publish a proposed rule to add the product to or remove the product from the labeling requirement in the **Federal Register** requesting comment. After reviewing all public comments and staff recommendations, EPA will make a final determination concerning the proposed rule within one year of receiving a petition that includes adequate data. This final determination will respond to all comments made on the proposed rule.

If EPA publishes a final rule applying the labeling requirement to a product, the effective date will, pursuant to section 611(e)(1), be one year after the final rule is published. If EPA publishes a final rule temporarily removing the labeling requirement from a product, the effective date will be the date of publication of the final rule in the **Federal Register**. However, any product that is labeled before the effective date would be required to remain labeled through the stream of commerce up to and including the point of sale to the ultimate consumer. EPA requests comment on its proposed procedural requirements for the submission and evaluation of petitions to add a product to or temporarily remove a product from the labeling requirement.

3. Adequate Data

Section 611(e)(2) states that "Any petition under this paragraph shall include a showing by the petitioner that there are data on the product adequate

to support the petition." Parallel to this requirement, EPA proposes that petitions to temporarily exempt a product from the labeling requirement must also include a showing of adequate data.

In order to be considered adequate, EPA proposes that a petition must include a showing of sufficient quality and scope of whether there are or are not substitute products or manufacturing processes that: (A) Do not rely on the use of such class I substance, (B) reduce the overall risk to human health and the environment, and (C) are currently or potentially available. These are the criteria set forth in sections 611(c) and (d) for the determination required to add a product containing or manufactured with a class II substance to or temporarily exempt a product manufactured with a class I substance from the labeling requirement under section 611.

Fulfilling the above criteria for petitions to temporarily exempt entails proving a "negative" (*i.e.*, that there are no substitutes), which is generally acknowledged to be extremely difficult to do with absolute certainty. For example, a petitioner would not only have to show that its testing and analysis of currently available substitutes was accurate, reproducible and performed in accordance with accepted quality assurance practices, but also that no other substitutes are potentially available. As a result, EPA is today proposing an extensive explanation of what data it would require in such a petition and how the data must be presented by the petitioner in order to be considered "adequate."

a. *Identification requirements.* In this subpart, EPA proposes identification requirements for petitions to add a product that contains or is manufactured with a class II substance to and petitions to temporarily exempt a product that is manufactured with a class I substance from the labeling requirement. These proposed identification requirements address who may file petitions, when petitions may be filed, where and how to file, length of time requested for exemptions, certification of accuracy, and requests for additional information. In order to facilitate review of the petitions, EPA proposes that any petition must be labeled and required sections numbered following the format specified in this subpart.

EPA proposes that in a part clearly labeled "Section I.A." the petitioner must give his or her full name, address and telephone number, fully identify the product that is the subject of the petition, and, if the petition is to temporarily exempt a product from the labeling requirement, identify who the manufacturer or manufacturers of that product are.

Section 611(e)(1) states that any person may petition the Agency regarding the application of labeling requirements to products containing a class II substance or products manufactured with a class I or class II substance. As such, EPA will review a petition of adequate data that it receives from any person. Where possible, however, the Agency strongly encourages petitioners to file "class action" petitions for all manufacturers of the same product or for all products that are similar. If petitions are specific to individual products manufactured by individual companies, for example, the number of petitions to be reviewed by EPA is likely to be much greater than if petitions are general for all manufacturers of a given product or products. Due to potential resource limitations, larger numbers of petitions would likely lengthen the time for any single petition to be reviewed.

Petitions should be sent to Labeling Program Manager, Global Change Division, Office of Atmospheric and Indoor Air Programs, U.S. Environmental Protection Agency, ANR–445, 401 M Street, SW., Washington, DC 20460. Two copies should be submitted.

As stated above, EPA can grant only a temporary exemption from the labeling requirement under section 611. Therefore, a petition to temporarily exempt a product manufactured with a class I substance must include, in a part clearly labeled "Section I.A.T.," the length of time for which he or she is requesting an exemption.

The petition must be certified by the petitioner to be true, accurate and complete. In a part clearly labeled "Section I.B.," the petitioner must include the following statement, signed by the petitioner or an authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information."

Section 611(e)(3) states that if the Administrator determines that the information on the product included in the petition is not sufficient to make the necessary determination, EPA will use any authority available to the Administrator under any law administered by the Administrator to acquire such information. As such, EPA may use the authority under section 114 of the Clean Air Act, for example, to request additional information from the petitioner or the manufacturer of the product that is the subject of the petition in order to render a determination on the petition. The Agency believes that it may also use such authority to request additional information in response to petitions to temporarily exempt. However, EPA's ability to acquire further information does not exempt the petitioner from the requirement to provide data adequate to support the petition.

b. *General claim requirement.* Hundreds of thousands of different products may contain a class II substance or be manufactured with a class I or class II substance. Each of these products may have different qualities which affect the availability or safe use of potential substitutes. As a result, EPA is not today proposing specific tests to be conducted or analytical methods to be used in support of a petition. Instead, EPA is proposing general claim and supporting data requirements to ensure that whatever testing and analysis is done by the petitioner be of sufficient quality and scope to support a determination that substitutes that reduce the overall risk to human health and environment are or are not currently or potentially available. The petitioner is free to choose the method or methods that substantiate the claim. However, the burden of proof is on the petitioner to show that these methods are, indeed, appropriate. EPA specifically requests comment on its proposal of a general claim requirement for the petition process as opposed to specific testing requirements.

In a part clearly labeled "Section I.C." EPA proposes that the petitioner must fully explain the basis for the petitioner's contention that there are or are not substitute products or manufacturing processes currently or potentially available that reduce the overall risk to human health and the environment.

For petitions to add a product containing or manufactured with a class II substance to the labeling requirement, EPA would expect the petitioner to show to a reasonable extent that at least one substitute meets all of the criteria for availability and reducing risk. As mentioned above, EPA proposes to evaluate petitions to apply the labeling requirement to any products

manufactured with or containing a class II substance in coordination with its regulations to implement the requirements of section 612. Section 612 authorizes EPA to promulgate regulations that, to the maximum extent practicable, replace class I or class II substances with chemicals, product substitutes or alternative manufacturing processes that reduce overall risks to human health and the environment. Proposed regulations implementing the requirements of section 612 are currently under development.

As part of the rulemakings in which EPA identifies available substitutes for class II products that reduce the overall risk under section 612, EPA intends to apply the labeling requirements under section 611 to those products where class II substances are still being used. Conversely, a determination that there are no currently or potentially available substitutes for class II products that reduce overall risk would not result in a labeling requirement. EPA thus proposes to evaluate petitions to add a class II product to the labeling requirement under section 611 in coordination with determinations made under section 612.

For petitions to temporarily exempt a product manufactured with a class I substance, EPA would expect the petitioner to show to a reasonable extent that all potential substitutes have been examined. The explanation in section I.C. should be done separately for each potential substitute examined by the petitioner (and numbered separately, *e.g.*, I.C.1., I.C.2., *etc.*) and should refer to the required supporting analyses accompanying the petition as specified in this subpart.

For example, alternatives to cleaning electronic circuit boards with class I substances are generally divided into five categories: Aqueous cleaning; low residue fluxes or "no-clean" assembly; controlled atmospheric soldering; alternate solvents (including chlorinated solvents, alcohols and HCFCs); and hydrocarbon or surfactant cleaning. (See Reference Manual of Practices to Reduce and Eliminate CFC–113 Use in the Electronics Industry.) At a minimum, EPA expects that a petition to exempt solvent-cleaned circuit boards from the labeling requirement would include detailed examinations of each of these categories with specific technical explanations and references to accompanying test results.

c. *Supporting data requirements.* EPA expects that references in support of the general claim for a petition to add a product containing or manufactured with a class II substance to or temporarily exempt a product manufactured with a class I substance from the labeling requirement would include one or more of the following: Technical or laboratory testing; literature surveys; and economic analysis. Supporting data requirements for each of these references are described below.

In a part clearly labeled "Section II.A.," the petitioner must fully describe any technical or laboratory tests used to support the petitioner's claims, including citations to appropriate technical references. All analysis and testing performed by the petitioner must be accurate, reproducible and performed in accordance with accepted quality assurance standards. In addition, an overall quality assurance and quality control plan must address all aspects of the tests or demonstrations and must be fully explained in this section.

Quality assurance standards might include "good laboratory" operations such as adequately trained and experienced personnel, good physical facilities and equipment, certified reagents and standards, and frequent servicing and calibration of instruments. An overall quality control plan might also include the following programs: (1) The sole use of methods that have been studied collaboratively and found acceptable (*i.e.*, "Standard Methods"); (2) routine calibration of analytical instruments using reference standards at least once each day; and (3) confirmation of the ability of a technical facility or laboratory to produce acceptable results by requiring analysis of a few reference samples once or twice a year.

Estimation techniques used by the petitioner in technical and laboratory tests must be appropriate, and test protocols accepted by appropriate standards organizations must be used. Examples of appropriate standards organizations include the American Society for Testing Materials (ASTM) and the Institute for Interconnecting and Packaging Electronic Circuits (IPC).

For each technical or laboratory test explained in section II.A. (and numbered separately as II.A.1., II.A.2., *etc.*), the petitioner must identify what estimation techniques and what test protocols were used and why these techniques and protocols were appropriate.

In a part clearly labeled "Section II.B.," the petitioner must fully describe any values taken from literature or estimated on the basis of known information, as opposed to direct measurements in the technical facility or laboratory, that are used to support the petitioner's claim. The petitioner must identify which values have been taken from literature or estimated on the basis of known information and explain why these values are appropriate. EPA expects that values used in support of a petition that are not the result of direct technical or laboratory testing would derive only from reputable peer-reviewed journals and would use theoretical studies that are based on conservative values.

In a part clearly labeled "Section II.C.," the petitioner must fully explain any economic analysis used to support the petitioner's claim. Economic impacts will only be considered in the context of determining whether a substitute is a viable alternative in that particular application. Such an analysis could include quantitative estimates of the costs associated with implementing an otherwise available substitute. If the petition asserts that implementing an available substitute will adversely affect the quality of a product, the petitioner should provide quantitative estimates of the expected impacts of such an outcome. Where potential economic consequences are not quantifiable, a full explanation of the potential impacts should be provided.

In support of any values used to support a petition that are drawn from technical or laboratory testing, available literature or economic analysis, EPA believes that it would be appropriate for the petitioner to present a thorough sensitivity analysis to identify and assess aspects of the test that contribute significantly to uncertainty. This analysis would show what assumptions or factors have the greatest bearing on the outcome of the test if they are changed or found to be incorrect. Although the Agency is not proposing to require that a sensitivity analysis accompany every petition at this time, it requests comment on whether such analysis should be required. EPA expects that affected industries that believe that they should not be subjected to the labeling requirement will submit petitions for categories of products as a group, and thus have the resources to carry out this detailed analysis, which could contribute to the Agency's making appropriate determinations under section 611.

EPA today proposes that any petition that does not include the certification requirements of sections I.A., I.B., and II.A. through II.C., in the format described above for each potential substitute examined by the petitioner, may be considered inadequate and returned to the petitioner.

4. Comments at Proposal to Add Products to or Remove Products From the Labeling Requirement

EPA is specifically interested in any information regarding the current or potential availability of substitutes that reduce the overall risk to human health and the environment for products containing class II substances or products manufactured with class I or class II substances. However, since all the information described in the subparts above would be required to ascertain the validity of a claim regarding the availability of such substitutes, EPA strongly encourages commenters that are in effect petitioning EPA to act on their information to meet all of the specified requirements for petitions.

D. Economic Assessment of the Proposed Regulation

1. Estimates of Costs and Benefits

EPA recognizes that there are a variety of potential costs associated with this rulemaking, including the following: the cost of reformulating or redesigning products to avoid labeling, administrative costs, additional printing costs, per unit costs of adding labels or tags, additional inventory management costs, and the label space opportunity cost. For many of the chemicals, the cost to reformulate a product or redesigning a product in reaction to this rule is not likely to occur because, as is recognized in the economic analysis, producers and manufacturers will be switching to CFC substitutes as quickly as is technologically possible, due to the phaseout regulations. For methyl chloroform, however, some acceleration of the phaseout may be possible as a result of today's proposed rule. Costs include those for one-time actions involved with changing existing labels to include the required warning statement and for administrative actions, such as developing a corporate position on how to implement the labeling requirement. The only end-use sectors expected to have per-unit costs are household and other refrigerated appliances because this sector is expected to apply a separate label to comply with the rule rather than modify an existing label. As a result, these one-time costs may be annualized over the effective length of the regulation (until phase-out). For example, if annualized over seven years at discount rates of 2, 6 and 10 percent per year, then the costs of labeling would equal, respectively, $9.2, $79.6 and $91.3 million. Annualized costs for reformulating products using methyl chloroform using the same rates were calculated to be $120, $140 and $160 million.

Both quantifiable and qualitative benefits are expected to result from the proposed regulation. Quantifiable pollution-prevention benefits would result from the proposed regulation to the extent that there is any decreased use of harmful ozone-depleting substances. Decreased use could occur because of better informed consumers buying fewer products that contain or are manufactured with ozone-depleting substances or because of manufacturers, anticipating an adverse consumer reaction, reformulating their products without the use of ozone-depleting substances. EPA's economic analysis was unable to quantify the benefits of labeling. Nonetheless, qualitative benefits associated with the more accurate expression of consumer preferences are expected. Quantitative benefits resulting from an earlier phaseout are unlikely for CFC products because they will be switching to alternatives due to the phaseout. Total potential benefits to the reformulation/redesigning of methyl chloroform (MCF) products, which could be chosen by manufacturers in place of labeling, were estimated to be from $743 to $1200 million.

POTENTIAL COSTS AND BENEFITS OF THE PROPOSED REGULATIONS

[Millions of dollars]

	Costs	Benefits
Labeling	60–445	Qualitative.
Reformulating/ Redesigning Products.	770	743–1200.

The first benefit that was analyzed qualitatively is that the labeling requirement results in a better informed consumer, which adds to the effectiveness of the marketplace by providing more accurate expression of consumer preferences. One of the main objectives of the labeling program is to educate the public about products that contain or were manufactured with ozone-depleting substances. The label will identify all such products and thus allow better informed consumers to express their preferences in the marketplace. In addition, a qualitative benefit would result from the recoverable substances label. Accurate and consistent labeling of products containing recoverable ozone-depleting substances would enhance implementation and enforcement of EPA's refrigerant recycling program.

Data from the phase-out analyses were employed to estimate the annual quantity of ozone-depleting substances that would be used in each end-use sector. In end-use sectors where the phase-out analyses does not predict that by May 15, 1993 (the effective date of the labeling rule) full implementation of technologically available substitutes will occur, there is a potential for the labeling rule to give companies an added incentive to phase out ozone-depleting substances faster than the predicted rate. The incremental benefits associated with the potential reduction in the use of ozone-depleting substances (less skin cancer deaths, cataracts, etc.) could be significant. For example, EPA estimated that the full potential savings that could result from decreased use of methyl chloroform in aerosol and adhesive/coating products could total between $743 million and 1.2 billion. This calculation assumes, as discussed in the economic analysis on page 43, that MCF use in other sectors does not increase, such as in sectors where consumers could be less sensitive to labeling. EPA also estimated that the incremental costs of an early phaseout due to the labeling rule in sectors where the potential reductions in the use of ozone-depleting substances are greater than predicted in the phase-out analysis would roughly equal the estimated benefits.

2. Impact on Small Entities

Although this rule may affect thousands of products, as suggested by the list in appendix A, the Agency believes that the regulation, if promulgated, will not have a significant impact on a substantial number of small entities. EPA informally examined the impacts on small entities in the economic analysis accompanying this proposed regulation. Based upon its analysis, EPA believes that the labeling costs will vary directly with the size of the firm. In other words, EPA anticipates that small businesses will have significantly lower total costs than large businesses.

The costs of labeling analyzed by EPA in the economic analysis include both administrative costs, such as developing a corporate position on how to implement the labeling requirement, and costs involved with changing existing labels to include the required warning statement. EPA used a report published by FDA (see reference Compliance Costs of Food Labeling Regulations 1991) to predict the administrative costs of labeling. FDA estimated that these costs would be significantly lower for smaller firms than for larger firms. The average administrative costs for firms with net sales less than $100 million

were estimated to be $850 per firm, while the costs for firms with $100 million to $1 billion in net sales were estimated to be $6,067 per firm and the costs for firms greater than $1 billion were estimated to be $10,733 per firm.

EPA relied on the estimates of professionals in each end-use sector to roughly predict the one-time costs of changing existing labels on an average across the sector. EPA believes that these costs will also vary directly with the size of the firm. For example, a small business is likely to have fewer product lines than a large business. As a result, the small business would have fewer existing product line labels to change and therefore lower costs. In addition, any per-unit labeling costs would be lower for smaller firms that would likely sell fewer units than large firms.

Based upon its economic analysis, EPA believes that only a few of the significantly impacted end-use sectors are likely to include any small businesses. These are: aerosols manufacturers and repackagers (especially fillers), and manufacturers using solvents or adhesives in their products. Even to the extent that they exist within these sectors, the costs of changing the label will not necessarily be born by the small businesses. For example, aerosol fillers may include some small businesses but this sector is a service industry that is not likely to bear the cost of changing the label. Instead the cost is likely to be born by the chemical manufacturer employing the filler. These chemical manufacturers are not generally small businesses.

Given the flexibility in the proposed rule as to compliance methods, especially for products using solvents or adhesives, EPA believes that the actual labeling costs incurred by small businesses could be significantly less than EPA predicted for an average business in its economic analysis. In addition, since most manufacturers periodically change their labels for various reasons as a standard business practice, EPA believes that the lead time built into the statutory deadlines (one year between final rules and effective date) will further reduce the labeling costs for small and large businesses below EPA's estimate.

Based upon its analysis of the administrative costs of labeling and the costs associated with changing existing labels, EPA believes that although this rule may affect many small entities the proposed regulation would not have a significant impact on a substantial number of small entities.

The Agency requests comment on the costs of these regulations to small entities and whether additional costs may be incurred by them due to large inventories of labels existing on May 15, 1993 that would not include the required test and thus would have to be modified or replaced. EPA requests information on the likelihood of this situation occurring and, to the extent that small entities could incur additional costs, seeks comment on the possible treatment of the problem and methods to minimize any such costs.

IV. "Ozone-Friendly" Labeling

The issue of "positive" or "green" labeling of products regarding their effect on stratospheric ozone has been recently addressed by the Federal Trade Commission (FTC), the State Attorneys General and others. For example, FTC recently announced a consent agreement with a manufacturer of spray products that would prohibit the use of "ecologically safe" claims for products containing class I ozone-depleting substances. This prohibition included the use of the terms "ozone-friendly," "ozone-safe" and similar terms.

Recommendations for responsible environmental advertising, including references to ozone safety, were developed in The Green Report (November, 1990) and updated in The Green Report II (May, 1991) by a Task Force of State Attorneys General from California, Florida, Massachusetts, Minnesota, Missouri, New York, Tennessee, Texas, Utah, Washington and Wisconsin. Building on the actions taken by the FTC against products containing ozone-depleting ingredients which are promoted as "ozone-friendly," The Green Report II specifically states that "The Task Force is also concerned that stating that such a product 'contains no CFCs' may also mislead because the phrase 'no CFCs' may mean 'safe for the ozone' to many consumers." It also suggests that labeling a product that does not contain any ozone-depleting substances as "safe for the environment" may be misleading "because many of these products contain volatile organic compounds that are linked to the creation of ground level ozone, a component of smog." Finally, the Report recommends that "A more appropriate, less confusing claim for such a product would be one which states 'contains no ozone depleting ingredients' or 'does not contribute to ozone depletion.' "

EPA fully supports the actions by the FTC and the State Attorneys General in the area of environmental claims and recognizes that significant confusion may exist with regard to the use of CFCs and other class I and class II ozone-depleting substances in consumer products, most notably aerosols. In response to this and other issues, EPA recently joined with the FTC and the U.S. Office of Consumer Affairs (OCA) to form an interagency task force on environmental labeling. The purpose of the task force is to provide a coordinated and cohesive national response to the issue of environmental labeling and marketing claims, including claims of ozone safety. Guidelines on several environmental claims will be published in the **Federal Register** in the near future.

Section 611 of the Clean Air Act mandates warning labels on products containing or manufactured with ozone-depleting substances but does not authorize EPA to regulate the use of terms such as "ozone-friendly." Nonetheless, EPA has presented the recent actions by FTC and the State Attorneys General in order to inform the public about the status of this related issue. EPA also believes that, while the broad issue of environmental claims is not directly addressed by section 611, the warning label requirement will help to alleviate some of the confusion currently surrounding claims like "ozone-friendly" and "contains no CFCs" by clearly informing consumers as to which products use ozone-depleting substances.

V. Additional Information

A. Executive Order 12291

Executive Order (E.O.) 12291 requires the preparation of a regulatory impact analysis for major rules, defined by the order as those likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic industries; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this proposed regulation does not meet the definition of a major rule under E.O. 12291 and has therefore not prepared a formal regulatory impact analysis. EPA has instead prepared a detailed economic analysis (see background document accompanying this proposed rulemaking and part III.D. above) which estimates and compares the potential costs and benefits of the proposed regulation, using the reductions of production and consumption under the phase-out as a baseline.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency believes that the regulation, if promulgated, will not have a significant impact on a substantial number of small entities and has therefore concluded that a formal RFA is unnecessary. Instead, EPA informally examined the impacts on small entities in the background document accompanying this proposed regulation. (See docket and part III.D. above.)

C. Paperwork Reduction Act

Any information collection requirements in a proposed rule must be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* While this proposed rule does include provisions for manufacturers of products that are manufactured with class I ozone-depleting substances to petition the Agency for temporary exemption, EPA does not expect that 10 or more manufacturers will initiate a petition after the regulations are promulgated. Therefore, EPA has determined that the Paperwork Reduction Act does not apply and no Information Collection Request document has been prepared.

VI. References

Federal Trade Commission. Staff Report on the Cigarette Advertising Investigation (1981).

Rudd, Joel. "Aiding Consumer Nutrition Decisions with the Simple Graphic Label Format." Home Economics Research Journal (March, 1986).

The Green Report: Findings and Preliminary Recommendations for Responsible Environmental Advertising. Ten-State Task Force of Attorneys General (November, 1990).

The Green Report II: Recommendations for Responsible Environmental Advertising. Ten-State Task Force of Attorneys General (May, 1991).

United Nations Environment Programme. Electronics, Degreasing and Dry Cleaning Solvents: Technical Options Report (June 30, 1989).

United Nations Environment Programme. Third Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer: UNEP/OzL.Pro.3/L.4/Add.4 (Nairobi, 19–21 June 1991).

United States Department of Commerce, National Bureau of Standards. The Development of Effective Symbol Signs (1982).

United States Department of Health and Human Service, Food and Drug Administration. Compliance Costs of Food Labeling Regulations (1991).

United States Environmental Protection Agency. Manual of Practices to Reduce and Eliminate CFC–113 Use in the Electronics Industry (March, 1990).

List of Subjects in 40 CFR Part 82

Chlorofluorocarbons, Clean Air Amendments of 1990, Motor vehicle air conditioning, Stratospheric ozone layer.

Dated: April 15, 1992.

William K. Reilly,

Administrator.

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES

Product	Containers/ manufactured	Class I	Class II
Aerosols/Pressurized Containers			
Pesticides:			
Aircraft insecticide	Containers	CFC–113	
Commercial food prep area insecticide	Containers	CFC–113, MCF	
Carpet flea spray	Containers	MCF	
Flying insect killers	Containers	MCF	
Foggers—indoor and outdoor	Containers	MCF	
House and garden insecticide	Containers	MCF	
Residual insecticides—roach spray	Containers	MCF	
Wasp/hornet spray	Containers	MCF, CFC–113	
Rose and floral spray	Containers	MCF	
Tomato and vegetable insecticide	Containers	MCF	
Spider mite spray	Containers	MCF	
Prune sealer	Containers	MCF	
Leaf shine (not a pesticide)	Containers	MCF	
Automobile products:			
Automotive undercoatings	Containers	MCF	
Brake cleaner	Containers	MCF	
Carburator/choke cleaner	Containers	MCF	
Electric motor cleaner	Containers	MCF, CFC–113	
Emergency tire inflator	Containers	CFC–12, MCF	HCFC–22
Engine cleaner	Containers	MCF	
Leak sealer	Containers	MCF	
Penetrating lubricants (nut loosener)	Containers	MCF	
Spray chain lubricant	Containers	MCF	
Spray lubricants	Containers	MCF	
Spray-a-gasket adhesive sealant	Containers	MCF	
Tire cleaners	Containers	MCF	
Wiring waterproofer	Containers	MCF	
Industrial products:			
Silicone lubricant	Containers	MCF	
Food-grade silicone	Containers	MCF	
Cutting oil (for metal cutting)	Containers	MCF	
White lithium grease	Containers	MCF	
Degreaser	Containers	MCF	HCFC–22
Contact cleaner	Containers	CFC–113	
Corrosion inhibitor	Containers	MCF	
Aerosol freeze spray (bearing inserter)	Containers	CFC–12	HCFC–22
Mold release agents	Containers	CFC–11, 12, 113, MCF	

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Weld inspection dye	Containers	CFC-12	HCFC-22
Weld inspection cleaner	Containers	MCF	
Mercapatan stench mine warning	Containers	CFC-12	
Electronic/photographic products:			
Contact cleaner	Containers	CFC-113, MCF	
Electronics/camera dusters	Containers	CFC-12	HCFC-22
Freezing/fault isolation spray for electronic mfg./repair	Containers	CFC-12	HCFC-22
Motion picture film cleaner	Containers	MCF	
Photographic film cleaner	Containers	CFC-113	
TV tuner cleaner	Containers	CFC-11	
Cleaner/degreaser	Containers	CFC-11/113	
Flux remover	Containers	CFC-11	
Electric model train track cleaner	Containers	MCF	
Household products:			
Aerosol freeze spray (gum remover)	Containers	CFC-12	HCFC-22
Clipper blade coolant	Containers	MCF	
Drain cleaners/pressurized blowers	Containers	CFC-12	
Artificial snow/glass frosting	Containers	MCF	
Leather/suede cleaner/protector/conditioner	Containers	MCF	
Paint/graffiti remover	Containers	MCF	HCFC-22
Party confetti (plastic party streamers)	Containers	CFC	
Spot remover	Containers	MCF	
Spray shoe polish	Containers	MCF	
Stain killer paint primer	Containers	MCF	
Water and oil repellent	Containers	MCF	
Water repellent for leather	Containers	MCF	
Shoe waterproofer	Containers	MCF	
Wood cleaners and protectors	Containers	MCF	
Outdoor fabric protector	Containers	MCF	
Fabric protector	Containers	MCF	
Fine tie protector	Containers	MCF	
Clothing protector	Containers	MCF	
Kitchen fire extinguishers	Containers	MCF	
Cosmetics:			
Deodorant	Containers		HCFC-22, 142b
Hair color spray	Containers	MCF	
Hair conditioner	Containers	MCF	
Strong-hold hair spray	Containers	MCF	HCFC-22
Hair spray	Containers	MCF	HCFC-22
Nail polish dryer	Containers	MCF	
Perfumes	Containers		HCFC-22
Art supplies:			
Drawing board cleaner	Containers	MCF	
Dulling/fixative spray	Containers	MCF	
Spray adhesive	Containers	MCF	
Spray varnish for oil paints	Containers	MCF	
Medical:			
Bronchial inhalent medicines	Containers	CFC-11, 12, 114	
Contraceptive foam	Containers	CFC-12, 114	
Hemhoroidal foam	Containers	CFC ??	
Lubricant for pharm. table mfg	Containers	CFC-113, 12	
Presurgical skin cleaners	Containers	CFC-113	
Skin chillers	Containers	CFC-11, 12, 114	
Other products:			
Diamond-grit spray	Containers	CFC-11, 12	
Safety horns (boats, personal safety)	Containers	CFC-12	HCFC-22
Party horns	Containers	CFC-12	
Single-station heat detector	Containers	CFC-12	
Military:			
Flying insect spray	Containers	CFC	
Electronic maintenance and testing	Containers	CFC	
Weld inspection systems	Containers	CFC-12, MCF	
Nonaerosol Cleaning Products			
Household products:			
Dye preparation/cleaner	Containers	MCF	
Spot remover	Containers	MCF	
Electronic/photographic cleaners:			
Vapor fusing fluids for overhead projectors	Containers	MCF	
Typewriter cleaner	Containers	MCF	
Photoreceptor cleaning fluid (Xerox)	Containers	MCF	
Motion picture film cleaner	Containers	MCF	
Contact cleaner	Containers	CFC-113, MCF	
Photographic film cleaner	Containers	CFC-113	
Professional cleaning products:			
Carpet pre-spray	Containers	MCF	
Carpet spot remover	Containers	MCF	
Upholstery cleaners	Containers	MCF	

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Disaster cleaner	Containers	MCF	
Adhesives			
Adhesive Products			
Consumer products:			
Consumer contact cement	Containers	MCF	
Sport and shoe patch	Containers	MCF	
Gutter adn drain sealant	Containers	MCF	
Spray cement for artwork	Containers	MCF	
Spray mount	Containers	MCF	
Construction:			
Industrial contact cement	Containers	MCF	
Industrial pressure sensitive adhesives	Containers	MCF	
Concrete adhesive	Containers	MCF	
Flourinated polymer seal materials	Containers	MCF	
Joint cements	Containers	MCF	
Roofing sealant	Containers	MCF	
Sealant primer	Containers	MCF	
Vinyl floor sealer	Containers	MCF	
Products Manufactured with Adhesives			
Construction:			
Acoustic panels installation	Manufactured with	MCF	
Carpetting installation	Manufactured with	MCF	
Counter top lamination	Manufactured with	MCF	
Wood floors	Manufactured with	MCF	
Prefabricated beams adn trusses	Manufactured with	MCF	
Recreational turf installation	Manufactured with	MCF	
Packaging:			
Cigarette filters	Manufactured with	MCF	
Composite containers and tubes	Manufactured with	MCF	
Computer disc envelopes	Manufactured with	MCF	
Corregated boxes	Manufactured with	MCF	
Cups	Manufactured with	MCF	
Envelopes	Manufactured with	MCF	
Labels	Manufactured with	MCF	
Laminated products	Manufactured with	MCF	
Paper bags	Manufactured with	MCF	
Other paper food packaging	Manufactured with	MCF	
Non-rigid bonding:			
Books, pads, journals, etc.	Manufactured with	MCF	
Carpeting	Manufactured with	MCF	
Shoes	Manufactured with	MCF	
Sporting goods	Manufactured with	MCF	
Textile fabrics coated with adhesive	Manufactured with	MCF	
Textiles bonded with adhesive	Manufactured with	MCF	
Rigid bonding:			
Appliance assembly	Manufactured with	MCF	
Cabinets	Manufactured with	MCF	
Doors	Manufactured with	MCF	
Metal furniture	Manufactured with	MCF	
Hard wood furniture	Manufactured with	MCF	
Soft wood furniture	Manufactured with	MCF	
Road signs	Manufactured with	MCF	
Transportation:			
Aircraft assembly	Manufactured with	MCF	
Automobile assembly	Manufactured with	MCF	
Batteries	Manufactured with	MCF	
Trim attachment	Manufactured with	MCF	
Vinyl roof assembly	Manufactured with	MCF	
Foam bonding:			
Automobiles	Manufactured with	MCF	
Furniture	Manufactured with	MCF	
Sports equipment	Manufactured with	MCF	
Tapes:			
Pressure-sensitive tapes	Containers	MCF	
Coating			
Bulk coatings:			
Coatings	Containers	MCF	
Inks	Containers	MCF	
Paints	Containers	MCF	
Traffic paints	Containers	MCF	
Paper correction fluid	Containers	MCF	
Products made with coatings:			
Aircraft parts-primer	Manufactured with	MCF	
Aircraft-topcoat	Manufactured with	MCF	
Air conditioning equipment	Manufactured with	MCF	

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Aluminum extrusion	Manufactured with	MCF	
Aluminum siding	Manufactured with	MCF	
Appliances-small	Manufactured with	MCF	
Automobile electronics	Manufactured with	MCF	
Automobile parts-under hood	Manufactured with	MCF	
Automobile parts-exterior	Manufactured with	MCF	
Concrete reinforcing bars	Manufactured with	MCF	
Electrical components	Manufactured with	MCF	
Electrical transformer covers	Manufactured with	MCF	
Decorative metal fixtures (handrails, fencing)	Manufactured with	MCF	
Metal furniture-outdoors	Manufactured with	MCF	
Metal furniture-indoors	Manufactured with	MCF	
Hardboard	Manufactured with	MCF	
Heavy equipment	Manufactured with	MCF	
Fence posts for highway and farm	Manufactured with	MCF	
Metal doors	Manufactured with	MCF	
Lawn and gardening equipment	Manufactured with	MCF	
Pumps	Manufactured with	MCF	
Bicycles	Manufactured with	MCF	
Paper clips	Manufactured with	MCF	
Lighting fixtures	Manufactured with	MCF	
Metal containers (computer covers, telephone boxes)	Manufactured with	MCF	
Steel shelving	Manufactured with	MCF	
Structured steel	Manufactured with	MCF	
Underground pipes	Manufactured with	MCF	
Farm/road construction equipment	Manufactured with	MCF	
Plumbing fixtures (water heaters, faucets)	Manufactured with	MCF	
Inks:			
Packaging	Manufactured with	MCF	
Specialty printing (catalogs, glossy advertisements)	Manufactured with	MCF	
Fire Extinguishers			
Commercial portable:			
Computer rooms	Containers	Halons	
Residential/automobile	Containers	Halons	
Libraries/record storage	Containers	Halons	
Office buildings	Containers	Halons	
Chemical laboratories	Containers	Halons	
Aircraft cabins	Containers	Halons	
Nuclear plant control rooms	Containers	Halons	
Power station control rooms	Containers	Halons	
Air traffic control towers	Containers	Halons	
Commercial total flooding:			
Computer rooms	Containers	Halons	
Telephone exchanges	Containers	Halons	
High value records/cultural heritage	Containers	Halons	
Ships (machinery spaces)	Containers	Halons	
Pipeline pumping stations	Containers	Halons	
Alaskan pipeline	Containers	Halons	
Aircraft engine nacelles	Containers	Halons	
Military portable:			
Aircraft cabins	Containers	Halons	
Spacecraft	Containers	Halons	
Tactical vehicles	Containers	Halons	
Air traffic control towers	Containers	Halons	
Ship control rooms	Containers	Halons	
Military total flooding:			
Computer rooms	Containers	Halons	
Defense facilities	Containers	Halons	
Ships (machinery spaces)	Containers	Halons	
Aircraft engine nacelles	Containers	Halons	
Foams			
Rigid Polyurethane: sprayed			
Aerosol crack or crevice filler	Containers	CFC–11	
Barge floatation cavity wall filler	Containers	CFC–11	
Bathroom fixture insulation	Containers	CFC–11	
Boat hull void filler	Containers	CFC–11	
Buoy floatation cavity wall filler	Containers	CFC–11	
Commercial roof insulation	Containers	CFC–11	
Commercial wall insulation	Containers	CFC–11	
Display cabinets	Containers	CFC–11	
Freezer insulation	Containers	CFC–11	
Industrial storage tanks	Containers	CFC–11	
Pipe insulation	Containers	CFC–11	
Pipeline ditch dam	Containers	CFC–11	
Refrigerated transport trailers or tanks	Containers	CFC–11	

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Residential roof insulation	Containers	CFC-11	
Residential wall insulation	Containers	CFC-11	
Space shuttle tank exterior	Containers	CFC-11	
Water heaters	Containers	CFC-11	
Rigid Polyurethane: Poured-in-place			
Aircraft carrier torpedo protection	Containers	CFC-11	
Appliance moulded packaging	Manufactured with	CFC-11	
Audio-visual moulded packaging	Manufactured with	CFC-11	
Automobile hood/trunk covers	Containers	CFC-11	
Beer kegs	Containers	CFC-11	
Building construction insulation	Containers	CFC-11	
Buoy floatation devices	Containers	CFC-11	
Buoys for raising sunken ships	Containers	CFC-11	
Cavity filler	Containers	CFC-11	
Cold storage discontinuous panels	Containers	CFC-11	
Computer housing	Containers	CFC-11	
Foam ice chests	Containers	CFC-11	
Foam-filled steel doors	Containers	CFC-11	
Freezer insulation	Containers	CFC-11	
Furniture parts	Containers	CFC-11	
Industrial construction insulation	Containers	CFC-11	
Molded component packaging	Manufactured with	CFC-11	
Packaging material	Manufactured with	CFC-11	
Personal computer moulded packaging	Manufactured with	CFC-11	
Picture frames	Containers	CFC-11	
Portable coolers	Containers	CFC-11	
Refrigerated tanks	Containers	CFC-11	
Refrigerated transportation insulation	Containers	CFC-11	
Refrigeration insulation	Containers	CFC-11	
Refrigerator insulation	Containers	CFC-11	
Telephone pole base insulation	Containers	CFC-11	
Underground phone line insulation	Containers	CFC-11	
Rigid Polyurethane: Bunstock/boardstock			
Equipment insulating material	Containers	CFC-11, 12, 13	
Industrial construction building material	Containers	CFC-11, 12, 13	
Insulating building material	Containers	CFC-11, 12, 13	
Roof insulation	Containers	CFC-11, 12, 13	
Wall insulation sheathing	Containers	CFC-11, 12, 13	
Farm building insulation	Containers	CFC-11, 12, 13	
Frame wall sheathing	Containers	CFC-11, 12, 13	
Metal building insulation	Containers	CFC-11, 12, 13	
Solar collection insulation	Containers	CFC-11, 12, 13	
Storage tank insulation	Containers	CFC-11, 12, 13	
Tank car insulation	Containers	CFC-11, 12, 13	
Insulated transport containers	Containers	CFC-11, 12, 13	
Flexible Polyurethane: Slabstock			
Automotive interiors	Manufactured with	CFC-11	
Bedding foam mattresses	Manufactured with	CFC-11	
Bedding form pillows	Manufactured with	CFC-11	
Bicycle seats	Manufactured with	CFC-11	
Carpet pad/underlay	Manufactured with	CFC-11	
Foam chairs	Manufactured with	CFC-11	
Foam sofas	Manufactured with	CFC-11	
Foam toys	Manufactured with	CFC-11	
Furniture cushions	Manufactured with	CFC-11	
In place urethane packaging	Manufactured with	CFC-11	
Motorcycle seats	Manufactured with	CFC-11	
Scrap flexible foam	Manufactured with	CFC-11	
Vehicle door panel padding	Manufactured with	CFC-11	
Vibration dampeners	Manufactured with	CFC-114	
Flexible Polyurethane: Molded			
No CFCs are used			
Integral skin and miscellaneous Polyurethane foams			
Automobile exterior body parts (bumpers)	Containers	CFC-11, 113	
Dashboard energy absorbing foams	Containers	CFC-11, 113	
Steering wheels, headrests, armrests	Containers	CFC-11, 113	
Roll bar padding	Containers	CFC-11, 113	
Beer barrels	Containers	CFC-11, 113	
Computer cabinets	Containers	CFC-11, 113	
Floral arrangement foams	Containers	CFC-11, 113	
Low density rigid packaging	Containers	CFC-11, 113	
Rigid flotation foams	Containers	CFC-11, 113	
Toys/novelties	Containers	CFC-11, 113	
Shoe soles	Containers	CFC-11, 113	
Car wash rollers	Containers	CFC-11, 113	
Seat cushions (tractors, trucks, exercise machines)	Containers	CFC-11, 113	
Golf cart wheels	Containers	CFC-11, 113	
Coolers and freezers	Containers	CFC-11, 113	
Skis	Containers	CFC-11, 113	

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Tennis rackets	Containers	CFC–11, 113	
Medical uses (chair padding)	Containers	CFC–11, 113	
Weapons padding (part of a gun)	Containers	CFC–11, 113	
Extruded low Density Polyothylene foam:			
Bicycle seats	Containers	CFC–11, 12, 114	HCFC–22, 142b
Body surfing boards	Containers	CFC–11, 12, 114	HCFC–22, 142b
Buoys	Containers	CFC–11, 12, 114	HCFC–22, 142b
Buoy/dock protective padding	Containers	CFC–11, 12, 114	HCFC–22, 142b
Concrete curing planks	Containers	CFC–11, 12, 114	HCFC–22, 142b
Flotation life jackets	Containers	CFC–11, 12, 114	HCFC–22, 142b
Floating docks	Containers	CFC–11, 12, 114	HCFC–22, 142b
Foam toys	Containers	CFC–11, 12, 114	HCFC–22, 142b
Furniture protective wrap	Containers	CFC–11, 12, 114	HCFC–22, 142b
Gaskets	Containers	CFC–11, 12, 114	HCFC–22, 142b
High-value object cushioning	Containers	CFC–11, 12, 114	HCFC–22, 142b
Mattress boarders	Containers	CFC–11, 12, 114	HCFC–22, 142b
Oil boom flotation	Containers	CFC–11, 12, 114	HCFC–22, 142b
Packaging materials (MAJOR USE)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Seat cushions (boat, plane, snowmobile, motorcycle)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Thermal insulation	Containers	CFC–11, 12, 114	HCFC–22, 142b
Vehicle sound insulation (roof, door)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Vibration dampeners	Containers	CFC–11, 12, 114	HCFC–22, 142b
Window sill plates	Containers	CFC–11, 12, 114	HCFC–22, 142b
Military packaging	Containers	CFC–11, 12, 114	
Low density Polypropylene foam:			
Buoy/dock protective padding	Containers	CFC–11, 12, 114	HCFC–142b
Commercial masonry wall insulation	Containers	CFC–11, 12, 114	HCFC–142b
Delicate item cushioning/protection	Containers	CFC–11, 12, 114	HCFC–142b
Insulating blankets	Containers	CFC–11, 12, 114	HCFC–142b
Concrete curing insulation	Containers	CFC–11, 12, 114	HCFC–142b
Marine booms	Containers	CFC–11, 12, 114	HCFC–142b
Packaging materials	Containers	CFC–11, 12, 114	HCFC–142b
Shrub insulating covers	Containers	CFC–11, 12, 114	HCFC–142b
Void filling	Containers	CFC–11, 12, 114	HCFC–142b
Other mixed Polyolefin foams:			
Automotive bumper systems (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Concrete reinforcements	Containers	CFC–11, 12, 114	HCFC–22, 142b
Construction materials (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Cushion packaging (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Filter elements	Containers	CFC–11, 12, 114	HCFC–22, 142b
Flotation devices (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Furniture protective padding (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Gaskets (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
High-value object padding (PE/PP)	Containers	CFC–11, 12, 114	HCFC–22, 142b
Phenolic foam:			
Chemical spill cleanup foam	Containers	CFC–11, 113	
Floral arrangement base	Containers	CFC–11, 113	
Ink filter	Containers	CFC–11, 113	
Frame wall sheathing	Containers	CFC–11, 113	
Roof/wall insulation	Containers	CFC–11, 113	
Polyvinyl Chloride foam—Low density:			
No CFCs are used			
Polyvinyl chloride foam—High density extruded:			
No CFCs are used			
Extruded Polystyrene insulation board:			
Agricultural roof, floor, wall insulation	Containers	CFC–12	HCFC–22
Basement/foundation/inverted roof insulation	Containers	CFC–12	HCFC–22
Steel building insulation	Containers	CFC–12	HCFC–22
Coaxial cable	Containers	CFC–12	HCFC–22
Commercial masonry wall insulation	Containers	CFC–12	HCFC–22
Concrete building insulation	Containers	CFC–12	HCFC–22
Core material for sandwich panel construction	Containers	CFC–12	HCFC–22
Dwelling roof, floor, wall insulation	Containers	CFC–12	HCFC–22
Frame wall sheathing insulation	Containers	CFC–12	HCFC–22
Frostheave railway/roadway protection	Containers	CFC–12	HCFC–22
Metal building insulation	Containers	CFC–12	HCFC–22
Tile and plaster backing	Containers	CFC–12	HCFC–22
Expanded Polystyrene:			
No CFCs are used			
Rigid extruded Polystyrene sheet:			
Disposable dishes	Containers	CFC–12	HCFC–22
Disposable packaging	Containers	CFC–12	HCFC–22
Dunnage	Containers	CFC–12	HCFC–22
Egg cartons	Containers	CFC–12	HCFC–22
Fast food 'clam shell' boxes	Containers	CFC–12	HCFC–22
Foam drinking cups	Containers	CFC–12	HCFC–22
Laminated sheets for insulation	Containers	CFC–12	HCFC–22
Supermarket meat trays	Containers	CFC–12	HCFC–22
Supermarket produce trays	Containers	CFC–12	HCFC–22

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Wraparound labels	Containers	CFC–12	HCFC–22
Plastic Non-Foam Products			
Postal mailers	Manufactured with	CFC–11	
Toxic cleanup clothes	Manufactured with	CFC–11	
Refrigeration			
Refrigerated transport:			
Airplane on-board refrig system	Containers	CFC–12	
Comm. fishing boat refrigeration	Containers	CFC–12	
Mobile refrigeration–containers/trailer/trucks	Containers	CFC–12	
Mobile refrigeration–containers/trailers/trucks	Containers	CFC–500	
Mobile refrigeration–containers/trailers/trucks	Containers	CFC–502	
Chillers:			
Centrifugal chillers	Containers	CFC–11	H
Centrifugal chillers	Containers	CFC–114	
Centrifugal chillers	Containers	CFC–12	
Centrifugal chillers	Containers	CFC–500	
Reciprocating chillers	Containers	CFC–12	
Retail food storage systems:			
Grocery store freezers	Containers	CFC–502	HCFC–22
Grocery store fridges	Containers	CFC–12	HCFC–22
Household appliances:			
Home central A/C	Containers		HCFC–22
Household freezers	Containers	CFC–12	
Household refrigerators	Containers	CFC–12	
Room A/C	Containers		HCFC–22
Other appliances:			
Beer dispensers	Containers	CFC–12	
Dehumidifiers	Containers	CFC–12	
Ice makers	Containers	CFC–12	
Ice makers	Containers	CFC–502	
Soda fountain dispensers	Containers	CFC–12	
Soft ice cream/yog machines	Containers	CFC–12	
Vending machines with refrigeration	Containers	CFC–12	
Water coolers	Containers	CFC–12,500	
Process refrigeration:			
Chemical plants	Containers	CFC–12,502	
Commercial/industrial ice machines	Containers	CFC–12,502	
Compressed gas storage	Containers	CFC–12,502	
Concrete dam or tunnel construction	Containers	CFC–12,502	
Dairy and meat packing	Containers	CFC–12,502	
Environmental test equipment	Containers	CFC–12 502	
Freeze dried coffee manufacturing	Containers	CFC–12 502	
Ice manufacturing	Containers	CFC–12 502	
Ice rinks	Containers	CFC–502	
Papermills	Containers	CFC–12 502	
Petrochemical plants	Containers	CFC–12 502	
Refineries	Containers	CFC–12 502	
Volatile liquid storage	Containers	CFC–12 502	
Other process refrigeration	Containers	CFC–12 502	
Military:			
Missile coolant systems	Containers	CFC	
Space shuttle coolant system	Containers	CFC	
Space simulators	Containers	CFC	
Liquid food freezing	Containers	CFC–12	
Cold storage warehouse:			
CFC–12 system	Containers	CFC–12	
CFC–502 system	Containers	CFC–502	
Refrigeration system parts:			
Condensing units	Containers	CFC–12	
Reciprocal compressors	Containers	CFC–12	
Rotary compressors	Containers	CFC–12	
Mobile air conditioning:			
Aircraft A/C	Containers	CFC–12	
Auto A/C	Containers	CFC–12	
Bus A/C	Containers	CFC–12	
Train A/C	Containers	CFC–12	
Truck A/C	Containers	CFC–12	
Medical Products			
Blood plasma	Manufactured with	CFC	
Cryogenic medical instruments	Containers	CFC	
Drug delivery systems	Containers	CFC	
Gel capsules	Manufactured with	Carbon Tet	
Medical apparatus syringes	Manufactured with	CFC	
Medical sterile packaging	Manufactured with	CFC	

APPENDIX A—PART 1: PARTIAL LIST OF PRODUCTS POTENTIALLY RELEASING CLASS I OR CLASS II SUBSTANCES—Continued

Product	Containers/ manufactured	Class I	Class II
Parts of medical instruments	Manufactured with	CFC–113	
Rotary-tab press punch lubs	Containers	CFC	
Surgical staplers	Manufactured with	CFC	
Surgical tubing	Manufactured with	CFC	
Sterilization			
Commercial	Containers	CFC	
Hospital	Containers	CFC	
Medical equipment	Containers	CFC	
Pharmaceutical	Containers	CFC	
R & D facilities	Containers	CFC	
Food			
Low tar tobacco	Manufactured with	CFC–11	
Freeze dried coffee	Manufactured with	CFC–12 or 502	
Spices	Manufactured with	CFC	
Whipping topping stabilizer	Containers	CFC–115	
Chlorinated Rubber			
Automotive seals and gaskets	Manufactured with	Carbon Tet	
Flexographic printing plates (for packaging printing)	Manufactured with	Carbon Tet	
Milking machines	Manufactured with	Carbon Tet	
Miscellaneous tubing, deals, and liners	Manufactured with	Carbon Tet	
Chemical Intermediate Use			
CFC–11 and 12	Manufactured with	Carbon Tet	
Vinyl chloride	Manufactured with	Carbon Tet	
Atrocene	Manufactured with	Carbon Tet	
Chlorothalonil	Manufactured with	Carbon Tet	
Dimethyl Tetrachloroterephthalate	Manufactured with	Carbon Tet	
Picloram	Manufactured with	Carbon Tet	
Permethrin	Manufactured with	Carbon Tet	
Cypermethrin	Manufactured with	Carbon Tet	
Indirect Process Uses			
Auto and airplane fuel production	Manufactured with	Carbon Tet	
Chlorine production	Manufactured with	Carbon Tet	

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC–113 FOR SOLVENT CLEANING

SIC code	SIC code translation	Containers/ Manufactured	Class I
0030	N/A	Manufactured	MCF
0036	N/A	Manufactured	MCF
0347	N/A	Manufactured	MCF, CFC–113
113	N/A	Manufactured	MCF
1237	N/A	Manufactured	MCF
1611	Highway and Street Construction, Except Elevated Highways	Manufactured	MCF
2037	Frozen Fruits, Fruit Juices, and Vegetables	Manufactured	MCF
2046	Wet Corn Milling	Manufactured	MCF
2051	Bread and Other Bakery Products, Except Cookies/Crackers	Manufactured	MCF
2067	Chewing Gum	Manufactured	MCF
2079	Manufactured Ice	Manufactured	CFC–113
2082	Malt Beverages	Manufactured	MCF
2087	Flavoring Extracts and Flavoring Syrups, NEC	Manufactured	MCF
2095	Roasted Coffee	Manufactured	MCF
2099	Food Preparations, NEC	Manufactured	MCF
2111	Cigarettes	Manufactured	MCF, CFC–113
2200	Textile Mill Products	Manufactured	MCF
2211	Broadwoven Fabric Mills, Cotton	Manufactured	MCF
2221	Broadwoven Fabric Mills, Manmade Fiber and Silk	Manufactured	MCF
2228	N/A	Manufactured	MCF
2253	Knit Outerwear Mills	Manufactured	MCF
2257	Weft Knit Fabric Mills	Manufactured	MCF
2258	Lace and Warp Knit Fabrics	Manufactured	CFC–113
2259	Knitting Mills, NEC	Manufactured	MCF
2261	Finishers of Broadwoven Fabrics of Cotton	Manufactured	MCF
2262	Finishers of Broadwoven Fabrics of Manmade Fiber or Silk	Manufactured	MCF
2269	Finishers of Textiles, NEC	Manufactured	MCF
2273	Carpets and Rugs	Manufactured	MCF
2280	Yarn and Thread Mills	Manufactured	MCF

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC-113 FOR SOLVENT CLEANING—Continued

SIC code	SIC code translation	Containers/ Manufactured	Class I
2281	Yarn Spinning Mills	Manufactured	MCF
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	Manufactured	MCF
2284	Thread Mills	Manufactured	MCF
2291	Felt Goods, Except Woven Felts and Hats (Disc. 1987)	Manufactured	MCF
2296	Tire Cord and Fabrics	Manufactured	MCF
2297	Nonwoven Fabrics	Manufactured	MCF
2299	Textile Goods, NEC	Manufactured	MCF
2389	Apparel and Accessories, NEC	Manufactured	MCF
2392	Housefurnishings, Except Curtains and Draperies	Manufactured	MCF
2421	Sawmills and Planing Mills, General	Manufactured	MCF
2431	Millwork	Manufactured	MCF
2436	Softwood Veneer and Plywood	Manufactured	MCF
2491	Wood Preserving	Manufactured	MCF
2499	Wood Products, NEC	Manufactured	MCF
2500	Furniture and Fixtures	Manufactured	MCF
2512	Wood Household Furniture, Upholstered	Manufactured	MCF
2514	Metal Household Furniture	Manufactured	MCF
2515	Mattresses, Foundations, and Convertible Beds	Manufactured	MCF
2521	Wood Office Furniture	Manufactured	MCF
2522	Office Furniture, Except Wood	Manufactured	MCF
2531	Public Building and Related Furniture	Manufactured	MCF
2541	Wood Office/Store Fixtures, Partitions, Shelving, Lockers	Manufactured	MCF
2542	Office/Store Fixtures, Partitions, Shelving, Lockers	Manufactured	MCF, CFC-113
2599	Furniture and Fixtures, NEC	Manufactured	MCF
2611	Pulp Mills	Manufactured	MCF
2621	Paper Mills	Manufactured	MCF
2631	Paperboard Mills	Manufactured	MCF
2641	Paper Coating and Glazing (Disc. 1987)	Manufactured	MCF, CFC-113
2643	Bags, Except Textile Bags (Disc. 1987)	Manufactured	MCF
2647	Sanitary Paper Products (Disc. 1987)	Manufactured	MCF
2648	Stationary, Tablets and Related Products (Disc. 1987)	Manufactured	MCF
2649	Converted Paper and Paperboard Products, NEC (Disc. 1987)	Manufactured	MCF
2653	Corrugated and Solid Fiber Boxes	Manufactured	MCF
2654	Sanitary Food Containers (Disc. 1987)	Manufactured	MCF
2655	Fiber Cans, Tubes, Drums, and Similar Products	Manufactured	MCF, CFC-113
2656	Sanitary Food Containers, Except Folding	Manufactured	MCF
2657	Folding Paperboard Boxes, Including Sanitary	Manufactured	MCF
2661	Building Paper and Building Board Mills (Disc. 1987)	Manufactured	MCF
2671	Packaging Paper and Plastics Film, Coated and Laminated	Manufactured	MCF
2672	Coated and Laminated Paper, NEC	Manufactured	MCF
2673	Plastics, Foil, and Coated Paper Bags	Manufactured	MCF
2676	Sanitary Paper Products	Manufactured	MCF
2679	Converted Paper and Paperboard Products, NEC	Manufactured	MCF
2700	Printing, Publishing, and Allied Industries	Manufactured	MCF
2721	Periodicals: Publishing, or Publishing and Printing	Manufactured	CFC-113
2732	Book Printing	Manufactured	MCF
2750	Commercial Printing	Manufactured	MCF
2751	Commercial Printing, Letterpresses, and Screen (Disc. 1987)	Manufactured	MCF
2752	Commercial Printing, Lithographic	Manufactured	MCF
2759	Commercial Printing, NEC	Manufactured	MCF
2761	Manifold Business Forms	Manufactured	MCF
2782	Blankbooks, Looseleaf Binders, and Devices	Manufactured	MCF
2799	N/A	Manufactured	MCF
2812	Alkalies and Chlorine	Manufactured	MCF
2813	Industrial Gases	Manufactured	MCF
2816	Inorganic Pigments	Manufactured	MCF
2818	N/A	Manufactured	MCF
2819	Industrial Inorganic Chemicals, NEC	Manufactured	MCF, CFC-113
2821	Plastics Materials/Synthetic Resins/Nonvulcanizable Elastomers	Manufactured	MCF, CFC-113
2822	Synthetic Rubber (Vulcanizable Elastomers)	Manufactured	MCF, CFC-113
2824	Manmade Organic Fibers, Except Cellulosic	Manufactured	MCF, CFC-113
2833	Medicinal Chemicals and Botanical Products	Manufactured	MCF, CFC-113
2834	Pharmaceutical Preparations	Manufactured	MCF, CFC-113
2836	Biological Products, Except Diagnostic Substances	Manufactured	MCF
2841	Soap and Other Detergents, Except Specialty Cleaners	Manufactured	MCF
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	Manufactured	MCF
2843	Surface Active Agents	Manufactured	MCF
2844	Perfumes, Cosmetics, and Other Toilet Preparations	Manufactured	MCF, CFC-113
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	Manufactured	MCF
2865	Cyclic Organic Crudes/Intermediates; Organic Dyes/Pigments	Manufactured	MCF, CFC-113
2869	Industrial Organic Chemicals, NEC	Manufactured	MCF, CFC-113
2873	Nitrogenous Fertilizers	Manufactured	MCF
2874	Phosphatic Fertilizers	Manufactured	MCF
2879	Pesticides and Agricultural Chemicals, NEC	Manufactured	MCF
2890	Miscellaneous Chemical Products	Manufactured	MCF
2891	Adhesives and Sealants	Manufactured	MCF
2892	Explosives	Manufactured	MCF
2893	Printing Ink	Manufactured	MCF
2899	Chemicals and Chemical Preparations, NEC	Manufactured	MCF

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC-113 FOR SOLVENT CLEANING—Continued

SIC code	SIC code translation	Containers/ Manufactured	Class I
2911	Petroleum Refining	Manufactured	MCF, CFC-113
2992	Lubricating Oils and Greases	Manufactured	MCF
3000	Rubber and Miscellaneous Plastics Products	Manufactured	MCF
3011	Tires and Inner Tubes	Manufactured	MCF
3021	Rubber and Miscellaneous Plastics Products	Manufactured	MCF
3032	N/A	Manufactured	MCF
3052	Rubber and Plastics Hose and Belting	Manufactured	MCF, CFC-113
3053	Gaskets, Packing, and Sealing Devices	Manufactured	MCF
3061	Molded, Extruded, and Lathe-cut Mechanical Rubber Goods	Manufactured	MCF
3069	Fabricated Rubber Products, NEC	Manufactured	MCF, CFC-113
3079	Miscellaneous Plastic Products (Disc. 1987)	Manufactured	MCF, CFC-113
3081	Unsupported Plastics Film and Sheet	Manufactured	MCF, CFC-113
3082	Unsupported Plastics Profile Shapes	Manufactured	MCF
3083	Laminated Plastics Plate, Sheet, and Profile Shapes	Manufactured	MCF
3086	Plastics Foams Products	Manufactured	MCF, CFC-113
3089	Plastics Products, NEC	Manufactured	MCF, CFC-113
3107	N/A	Manufactured	CFC-113
3111	Leather Tanning and Finishing	Manufactured	CFC-113
3122	N/A	Manufactured	MCF
3131	Boot and Shoe Cut Stock and Findings	Manufactured	MCF
3145	N/A	Manufactured	MCF
3161	Luggage	Manufactured	MCF
3169	N/A	Manufactured	MCF
3175	N/A	Manufactured	MCF
3211	Flat Glass	Manufactured	MCF
3221	Glass Containers	Manufactured	MCF
3226	N/A	Manufactured	MCF
3229	Pressed and Blown Glass and Glassware, NEC	Manufactured	MCF, CFC-113
3231	Glass Products, Made of Purchased Glass	Manufactured	MCF, CFC-113
3241	Cement, Hydraulic	Manufactured	MCF, CFC-113
3255	Clay Refractories	Manufactured	MCF
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	Manufactured	MCF
3264	Porcelain Electrical Supplies	Manufactured	MCF, CFC-113
3271	Concrete Block and Brick	Manufactured	MCF
3278	N/A	Manufactured	MCF, CFC-113
3291	Abrasive Products	Manufactured	MCF, CFC-113
3293	Gaskets, Packing and Sealing Devices (Disc. 1987)	Manufactured	MCF
3296	Mineral Wool	Manufactured	MCF
3297	Nonclay Refractories	Manufactured	MCF, CFC-113
3299	Nonmetallic Mineral Products, NEC	Manufactured	MCF
3300	Primary Metals Industries	Manufactured	MCF
3311	N/A	Manufactured	MCF
3312	Steel Works/Blast Furnaces (Inc. Coke Ovens)/Roling Mills	Manufactured	MCF
3313	Electrometallurgical Products, Except Steel	Manufactured	MCF
3315	Steel Wiredrawing and Steel Nails and Spikes	Manufactured	MCF
3316	Cold-Rolled Steel Sheet, Strip, and Bars	Manufactured	MCF
3317	Steel Pipe and Tubes	Manufactured	MCF, CFC-113
3319	N/A	Manufactured	MCF
3321	Gray and Ductile Iron Foundries	Manufactured	MCF, CFC-113
3322	Malleable Iron Foundries	Manufactured	MCF, CFC-113
3324	Steel Investment Foundaries	Manufactured	MCF, CFC-113
3325	Steel Foundries, NEC	Manufactured	MCF, CFC-113
3331	Primary Smelting and Refining of Copper	Manufactured	MCF
3333	N/A	Manufactured	MCF, CFC-113
3334	Primary Production of Aluminum	Manufactured	MCF
3339	Primary Smelting/Refining of Nonferrous Metals (not Copper/Aluminum)	Manufactured	MCF, CFC-113
3341	Secondary Smelting and Refining of Nonferrous Metals	Manufactured	MCF, CFC-113
3345	Primary Smelting and Refining of Zinc (Disc. 1987)	Manufactured	MCF
3351	Rolling, Drawing, and Extruding of Copper	Manufactured	MCF
3352	N/A	Manufactured	MCF
3353	Aluminum Sheet, Plate, and Foil	Manufactured	MCF
3354	Aluminum Extruded Products	Manufactured	MCF
3355	Aluminum Rolling and Drawing, NEC	Manufactured	MCF, CFC-113
3356	Rolling/Drawing/Extruding of Nonferrous Metals (not Copper/Aluminum)	Manufactured	MCF, CFC-113
3357	Drawing and Insulating of Nonferrous Wire	Manufactured	MCF, CFC-113
3361	Aluminum Foundries (Disc. 1987)	Manufactured	MCF, CFC-113
3362	Brass/Bronze/Copper/Copper Base Alloy Foundries (Castings) (Disc. 198)	Manufactured	MCF
3363	Aluminum Die—Castings	Manufactured	MCF
3364	Nonferrous Die—Castings, Except Aluminum	Manufactured	MCF
3365	Aluminum Foundries	Manufactured	MCF, CFC-113
3366	Copper Foundries	Manufactured	MCF, CFC-113
3369	Nonferrous Foundries, Except Aluminum and Copper	Manufactured	MCF, CFC-113
3379	N/A	Manufactured	MCF
3380	N/A	Manufactured	MCF
3398	Metal Heat Treating	Manufactured	MCF, CFC-113
3399	Primary Metal Products, NEC	Manufactured	MCF, CFC-113
3400	Fabricated Metal Products (not Machinery/Transp. Equip.)	Manufactured	MCF, CFC-113
3411	Metal Cans	Manufactured	MCF

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC-113 FOR SOLVENT CLEANING—Continued

SIC code	SIC code translation	Containers/ Manufactured	Class I
3412	Metal Shipping Barrels, Drums, Kegs, and Pails	Manufactured	MCF, CFC-113
3417	N/A	Manufactured	MCF, CFC-113
3419	N/A	Manufactured	CFC-113
3421	Cutlery	Manufactured	MCF, CFC-113
3423	Hand and Edge Tools, Except Machine Tools and Handsaws	Manufactured	MCF, CFC-113
3425	Saw Blades and Handsaws	Manufactured	MCF
3429	Hardware, NEC	Manufactured	MCF, CFC-113
3430	Heating Equipment (not Electric and Warm Air)/Plumbing Fix	Manufactured	CFC-113
3431	Enameled Iron and Metal Sanitary Ware	Manufactured	MCF
3432	Plumbing Fixture Fittings and Trim	Manufactured	MCF, CFC-113
3433	Heating Equipment (not Electric and Warm Air Furnaces)	Manufactured	MCF, CFC-113
3440	Fabricated Structural Metal Products	Manufactured	MCF, CFC-113
3441	Fabricated Structural Metal	Manufactured	MCF, CFC-113
3442	Metal Doors, Sash, Frames, Molding, and Trim	Manufactured	MCF, CFC-113
3443	Fabricated Plate Work (Boiler Shops)	Manufactured	MCF, CFC-113
3444	Sheet Metal Work	Manufactured	MCF, CFC-113
3446	Architectural and Ornamental Metal Work	Manufactured	MCF
3448	Prefabricated Metal Buildings and Components	Manufactured	MCF
3449	Miscellaneous Structural Metal Work	Manufactured	MCF, CFC-113
3450	Screw Machine Prods. and Bolts/Nuts/Screws/Rivets/Washers	Manufactured	CFC-113
3451	Screw Machine Products	Manufactured	MCF, CFC-113
3452	Bolts, Nuts, Screws, Rivets, and Washers	Manufactured	MCF, CFC-113
3456	N/A	Manufactured	MCF
3462	Iron and Steel Forgings	Manufactured	MCF, CFC-113
3463	Nonferrous Forgings	Manufactured	MCF, CFC-113
3465	Automotive Stampings	Manufactured	MCF
3469	Metal Stampings, NEC	Manufactured	MCF, CFC-113
3470	Coating, Engraving, and Allied Services	Manufactured	MCF, CFC-113
3471	Electroplating, Plating, Polishing, Anodizing, Coloring	Manufactured	MCF, CFC-113
3478	N/A	Manufactured	MCF
3479	Coatings, Engraving, and Allied Services, NEC	Manufactured	MCF, CFC-113
347A	N/A	Manufactured	MCF
3480	Ordnance and Accessories (not Vehicles and Guided Missiles)	Manufactured	MCF
3482	Small Arms Ammunition	Manufactured	MCF
3483	Ammunition, Except for Small Arms	Manufactured	MCF, CFC-113
3484	Small Arms	Manufactured	MCF, CFC-113
3489	Ordnance and Accessories, NEC	Manufactured	MCF, CFC-113
3490	Miscellaneous Fabricated Metal Products	Manufactured	MCF, CFC-113
3491	Industrial Valves	Manufactured	MCF
3492	Fluid Power Valves and Hose Fittings	Manufactured	MCF
3494	Valves and Pipe Fittings, NEC	Manufactured	MCF, CFC-113
3495	Wire Springs	Manufactured	MCF, CFC-113
3496	Miscellaneous Fabricated Wire Products	Manufactured	MCF, CFC-113
3497	Metal Foil and Leaf	Manufactured	MCF, CFC-113
3498	Fabricated Pipe and Pipe Fittings	Manufactured	MCF, CFC-113
3499	Fabricated Metal Products, NEC	Manufactured	MCF, CFC-113
3501	N/A	Manufactured	MCF, CFC-113
3511	Steam/Gas/Hydraulic Turbines; Turbine Generator Set Units	Manufactured	CFC-113
3519	Internal Combustion Engines, NEC	Manufactured	MCF, CFC-113
3523	Farm Machinery and Equipment	Manufactured	MCF
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment	Manufactured	MCF, CFC-113
3531	Construction Machinery and Equipment	Manufactured	MCF, CFC-113
3532	Mining Machinery/Equipment (not Oil and Gas Field Equip.)	Manufactured	MCF, CFC-113
3533	Oil and Gas Field Machinery and Equipment	Manufactured	MCF, CFC-113
3534	Elevators and Moving Stairways	Manufactured	MCF
3536	Overhead Traveling Cranes, Hoists, and Monorail Systems	Manufactured	MCF
3537	Industrial Trucks, Tractors, Trailers, and Stackers	Manufactured	MCF, CFC-113
3540	Metalworking Machinery and Equipment	Manufactured	MCF
3541	Machine Tools, Metal Cutting Types	Manufactured	MCF, CFC-113
3542	Machine Tools, Metal Forming Types	Manufactured	MCF
3544	Special Dies/Tools, Die Sets, Jigs/Fixtures, Industrial Molds	Manufactured	MCF, CFC-113
3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices	Manufactured	MCF, CFC-113
3546	Power-Driven Handtools	Manufactured	MCF
3547	Rolling Mill Machinery and Equipment	Manufactured	MCF
3549	Metalworking Machinery, NEC	Manufactured	MCF, CFC-113
3551	Food and Products Machinery (Disc. 1987)	Manufactured	MCF
3553	Woodworking Machinery	Manufactured	MCF
3554	Paper Industries Machinery	Manufactured	MCF
3555	Printing Trades Machinery and Equipment	Manufactured	MCF
3556	Food Products Machinery	Manufactured	MCF
3559	Special Industry Machinery, NEC	Manufactured	MCF, CFC-113
3560	General Industrial Machinery and Equipment	Manufactured	MCF, CFC-113
3561	Pumps and Pumping Equipment	Manufactured	MCF, CFC-113
3562	Ball and Roller Bearings	Manufactured	MCF, CFC-113
3563	Air and Gas Compressors	Manufactured	MCF
3564	Industrial and Commercial Fans/Blowers/Air Purification Equip.	Manufactured	MCF
3565	Packaging Machinery	Manufactured	MCF
3566	Speed Changers, Industrial High-Speed Drives, and Gears	Manufactured	MCF

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC-113 FOR SOLVENT CLEANING—Continued

SIC code	SIC code translation	Containers/ Manufactured	Class I
3567	Industrial Process Furnaces and Ovens	Manufactured	MCF, CFC-113
3568	Mechanical Power Transmission Equipment, NEC	Manufactured	MCF, CFC-113
3569	General Industrial Machinery and Equipment, NEC	Manufactured	MCF, CFC-113
3571	Electronic Computers	Manufactured	MCF, CFC-113
3572	Computer Storage Devices	Manufactured	MCF, CFC-113
3573	Electronic Computing Equipment (Disc. 1987)	Manufactured	MCF, CFC-113
3575	Computer Terminals	Manufactured	CFC-113
3577	Computer Peripheral Equipment, NEC	Manufactured	MCF, CFC-113
3578	Calculating/Accounting Machines (not Electronic Computers)	Manufactured	MCF, CFC-113
3579	Office Machines, NEC	Manufactured	MCF, CFC-113
3580	Refrigeration and Service Industry Machinery	Manufactured	MCF
3581	Automatic Vending Machines	Manufactured	MCF, CFC-113
3582	Commercial Laundry, Drycleaning, and Pressing Machines	Manufactured	MCF
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment.	Mafactured	MCF, CFC-113
3586	Measuring and Dispensing Pumps	Manufactured	MCF, CFC-113
3589	Service Industry Machinery, Not Elsewhere Classified	Manufactured	MCF
3592	Carburetors, Pistons, Piston Rings, and Valves	Manufactured	MCF, CFC-113
3593	Fluid Power Cylinders and Actuators	Manufactured	MCF, CFC-113
3596	Scales and Balances	Manufactured	CFC-113
3599	Industrial and Commercial Machinery and Equipment, NEC	Manufactured	MCF, CFC-113
3600	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	Manufactured	MCF, CFC-113
3612	Power, Distribution, and Specialty Transformers	Manufactured	MCF, CFC-113
3613	Switchgear and Switchboard Apparatus	Manufactured	MCF, CFC-113
3621	Motors and Generators	Manufactured	MCF, CFC-113
3622	Industrial Controls (Disc. 1987)	Manufactured	MCF, CFC-113
3623	Welding Apparatus, Electric (disc. 1987)	Manufactured	MCF
3624	Carbon and Graphite Products	Manufactured	MCF
3625	Relays and Industrial Controls	Manufactured	MCF, CFC-113
3629	Electrical Industrial Apparatus, NEC	Manufactured	MCF, CFC-113
3630	Household Appliances	Manufactured	MCF
3631	Household Cooking Equipment	Manufactured	MCF, CFC-113
3632	Household Refrigerators and Home and Farm Freezers	Manufactured	MCF, CFC-113
3633	Household Laundry Equipment	Manufactured	MCF, CFC-113
3634	Electric Housewares and Fans	Manufactured	MCF
3635	Household Vacuum Cleaners	Manufactured	MCF
3636	Sewing Machines (Disc. 1987)	Manufactured	MCF
3639	Household Appliances, NEC	Manufactured	MCF, CFC-113
3641	Electric Lamp Bulbs and Tubes	Manufactured	MCF, CFC-113
3643	Current-Carrying Wiring Devices	Manufactured	MCF, CFC-113
3644	Noncurrent-Carrying Wiring Devices	Manufactured	MCF, CFC-113
3645	Residential Electrical Lighting Fixtures	Manufactured	MCF
3646	Commercial/Industrial/Institutional Electric Lighting Fix.	Manufactured	MCF
3647	Vehicular Lighting Equipment	Manufactured	MCF, CFC-113
3648	Lighting Equipment, NEC	Manufactured	MCF
3651	Household Audio and Video Equipment	Manufactured	MCF, CFC-113
3652	Phonograph Records and Prerecorded Autio Tapes and disks	Manufactured	MCF
3657	N/A	Manufactured	MCF
3661	Telephone and Telegraph Apparatus	Manufactured	MCF, CFC-113
3662	Radio and Telecommunications Equipment	Manufactured	MCF, CFC-113
3663	Radio and Television Broadcasting and Communication Equip.	Manufactured	MCF, CFC-113
3665	N/A	Manufactured	CFC-113
3669	Communications Equipment, NEC	Manufactured	MCF, CFC-113
3670	Electronic Components and Accessories	Manufactured	MCF, CFC-113
3671	Electron Tubes	Manufactured	MCF, CFC-113
3672	Printed Circuit Boards	Manufactured	MCF, CFC-113
3673	Transmitting/Industrial/Special Purpose Electron tubes (Disc. 1987)	Manufactured	MCF, CFC-113
3674	Semiconductors and Related Devices	Manufactured	MCF, CFC-113
3675	Electronic Capacitors	Manufactured	MCF, CFC-113
3676	Electronic Resistors	Manufactured	MCF, CFC-113
3677	Electronic Coils, Transformers, and Other Industros	Manufactured	MCF, CFC-113
3678	Electronic Connectors	Manufactured	MCF, CFC-113
3679	Electronic Components, NEC	Manufactured	MCF, CFC-113
3691	Storage Batteries	Manufactured	MCF, CFC-113
3692	Primary Batteries, Dry and Wet	Manufactured	MCF, CFC-113
3693	RadiographicX-Ray, Fluoroscopic X-Ray, Therapeutic X-Ray, and Other X-Ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus (Dis. 1987).	Manufactured	MCF, CFC-113
3694	Electrical Equipment for Internal Combustion Engines	Manufactured	MCF, CFC-113
3695	Magnetic and Optical Recording Media	Manufactured	CFC-113
3697	N/A	Manufactured	MCF, CFC-113
3698	N/A	Manufactured	MCF, CFC-113
3699	Electrical Machinery, Equipment, and Supplies, NEC	Manufactured	MCF, CFC-113
3700	Transportation Equipment	Manufactured	MCF, CFC-113
3710	Motor Vehicles and Motor Vehicle Equipment	Manufactured	MCF
3711	Motor Vehicles and Passenger Car Bodies	Manufactured	MCF, CFC-113
3713	Truck and Bus Bodies	Manufactured	MCF, CFC-113
3714	Motor Vehicle Parts and Accessories	Manufactured	MCF, CFC-113
3715	Truck Trailers	Manufactured	MCF
3716	Motor Homes	Manufactured	MCF

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC-113 FOR SOLVENT CLEANING—Continued

SIC code	SIC code translation	Containers/ Manufactured	Class I
3717	N/A	Manufactured	CFC-113
3720	Aircraft and Parts	Manufactured	MCF, CFC-113
3721	Aircraft	Manufactured	MCF, CFC-113
3722	N/A	Manufactured	MCF
3724	Aircraft Engines and Engine Parts	Manufactured	MCF, CFC-113
3728	Aircraft Parts and Auxiliary Equipment, NEC	Manufactured	MCF, CFC-113
3730	Ship and Boat Building and Repairing	Manufactured	MCF
3731	Ship Building and Repairing	Manufactured	MCF, CFC-113
3732	Boat Building and Repairing	Manufactured	MCF
3741	N/A	Manufactured	MCF
3743	Railroad Equipment	Manufactured	MCF
3751	Motorcycles, Bicycles, and Parts	Manufactured	MCF
3761	Guided Missles and Space Vehicles	Manufactured	MCF, CFC-113
3764	Guided Missle/Space Vehicle Propulsion Units/Parts	Manufactured	MCF, CFC-113
3769	Guided Missle/Space Vehicle Parts/Auxiliary Equip., NEC	Manufactured	MCF, CFC-113
3771	N/A	Manufactured	MCF
3792	Travel Trailers and Campers	Manufactured	MCF
3795	Tanks and Tank Components	Manufactured	MCF, CFC-113
3799	Transportation Equipment, NEC	Manufactured	MCF
3811	Engineering, Laboratory, Scientific and Research Instruments and Associated Equipment (Disc. 1987).	Manufactured	MCF, CFC-113
3812	Search, Detection, Navigation, Guidance, Aeronautical and Nautical Systems and Instruments.	Manufactured	MCF, CFC-113
3815	N/A	Manufactured	CFC-113
3821	Laboratory Apparatus and Furniture	Manufactured	MCF
3822	Automatic Controls For Regulating Residential and Commercial Environments and Appliances.	Manufactured	MCF, CFC-113
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products.	Manufactured	MCF, CFC-113
3824	Totalizing Fluid Meters and Counting Devices	Manufactured	MCF, CFC-113
3825	Instruments for Measuring/Testing Electricity/Electrical Signals	Manufactured	MCF, CFC-113
3826	Laboratory Analytical Instruments	Manufactured	MCF
3827	Optical Instruments and Lenses	Manufactured	MCF
3829	Measuring and Controlling Devices, NEC	Manufactured	MCF, CFC-113
3830	Optical Instruments and Lenses (Disc. 1987)	Manufactured	MCF
3831	N/A	Manufactured	MCF
3832	Optical Instruments and Lenses (Disc. 1987)	Manufactured	MCF
3841	Surgical and Medical Instruments and Apparatus	Manufactured	MCF, CFC-113
3842	Orthopedic, Prosthetic, and Surgical Appliances/Supplies	Manufactured	MCF, CFC-113
3843	Dental Equipment and Supplies	Manufactured	MCF, CFC-113
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	Manufactured	MCF
3845	Electromedical and Electro-therapeutic Apparatus	Manufactured	CFC-113
3851	Opthalmic Goods	Manufactured	MCF, CFC-113
3855	N/A	Manufactured	MCF
3861	Photographic Equipment and Supplies	Manufactured	MCF, CFC-113
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	Manufactured	MCF, CFC-113
3900	Miscellaneous Manufacturing Industries	Manufactured	MCF
3911	Jewelry, Precious Metal	Manufactured	MCF, CFC-113
3914	Silverware, Plated Ware, and Stainless Steel Ware	Manufactured	MCF
3915	Jewelers' Findings and Materials, and Lapidary Work	Manufactured	MCF, CFC-113
3931	Musical Instruments	Manufactured	MCF
3934	N/A	Manufactured	MCF
3940	Dolls, Toys, Games, and Sporting and Athletic Goods	Manufactured	MCF
3944	Games, Toys, and Children's Vehicles (not Dolls/Bicycles)	Manufactured	MCF
3947	N/A	Manufactured	MCF
3949	Sporting and Athletic Goods, NEC	Manufactured	MCF, CFC-113
3951	Pens, Mechanical Pencils, and Parts	Manufactured	MCF, CFC-113
3953	Marking Devices	Manufactured	MCF
3955	Carbon Paper and Inked Ribbons	Manufactured	MCF, CFC-113
3961	Costume Jewelry and Costume Novelities (not Precious Metal)	Manufactured	MCF, CFC-113
3963	Buttons (Disc. 1987)	Manufactured	CFC-113
3964	Needles/Pins/Hooks/Eyes and Similar Notions (Disc 1987)	Manufactured	MCF, CFC-113
3965	Fasteners, Buttons, Needles, and Pins	Manufactured	MCF
3973	N/A	Manufactured	MCF, CFC-113
3991	Brooms and Brushes	Manufactured	MCF
3993	Signs and Advertising Specialties	Manufactured	MCF, CFC-113
3995	Burial Caskets	Manufactured	MCF, CFC-113
3996	Linoleum/Asphalt—Felt—Base/Other Hard Surface Floor Cover NEC	Manufactured	MCF
3999	Manufacturing Industries, NEC	Manufactured	MCF, CFC-113
4661	N/A	Manufactured	MCF, CFC-113
4911	Electric Services	Manufactured	MCF
4953	Refuse Systems	Manufactured	MCF
4961	Steam and Air Condition Supply	Manufactured	MCF
5051	Metals Service Centers and Offices	Manufactured	MCF
5065	Electronic Parts and Equipment, NEC	Manufactured	MCF
5169	Chemicals and Allied Products, NEC	Manufactured	MCF
7371	Computer Programming Services	Manufactured	MCF, CFC-113
7372	Prepackage Software	Manufactured	MCF, CFC-113
7378	Computer Maintenance and Repair	Manufactured	CFC-113

PART 2: PARTIAL LIST OF INDUSTRIES USING MCF OR CFC-113 FOR SOLVENT CLEANING—Continued

SIC code	SIC code translation	Containers/ Manufactured	Class I
7389	Business Services, NEC	Manufactured	MCF
7391	N/A	Manufactured	MCF
7397	N/A	Manufactured	CFC-113
7629	Electrical and Electronic Repair Shops, NEC	Manufactured	MCF, CFC-113
7812	Motion Picture and Video Tape Production	Manufactured	MCF
8711	Engineering Services	Manufactured	MCF
8731	Commercial Physical and Biological Research	Manufactured	MCF
8734	Testing Laboratories	Manufactured	MCF
8911	N/A	Manufactured	MCF, CFC-113
9661	Space Research and Technology	Manufactured	CFC-113
9711	National Security	Manufactured	MCF, CFC-113

N/A=indicates SIC code reported in the TRI database, but not listed in the database code book.
NEC=Not Elseware Classified.
(Disc. 1987)=indicates that this SIC code was discontinued in the 1987 Census of Manufactures.
This list of SIC codes was compiled from information in the Toxic Release Inventory (TRI). The SIC codes represent industries in which one or more companies use more than 10,000 lbs of MCF or CFC-113 for an ancillary or other use. While the "ancilary or other use" category should include primarily companies that use MCF or CFC-113 in a solvent cleaning application, it is possible that the companies use the chemical for another use such as a solvent for an adhesive or coating. It is also possible that companies using MCF or CFC-113 for solvent cleaning reported under a different use category. Companies report SIC codes and chemical use independently, and may report more than one SIC code. Therefore, it is possible that a company does not use the MCF or CFC-113 in operations under each of the SIC codes.

Title 40, Code of Federal Regulations, part 82, is amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7671-7671(q).

2. A new subpart E is added to the proposed revision of part 82 (56 FR 43842, September 4, 1991) to read as follows:

Subpart E—Labeling of Products Using Ozone Depleting Substances

Sec.
82.100 Purpose.
82.102 Applicability.
82.104 Definitions.
82.106 Warning label requirements.
82.108 Placement of warning label.
82.110 Form of warning label.
82.112 Removal of warning label.
82.114 Compliance by manufacturers using components.
82.116 Compliance by wholesalers, distributors and retailers.
82.118 Petitions.
82.120 Recoverable substances label.
82.122 Prohibitions.

Subpart E—Labeling of Products Using Ozone Depleting Substances

§ 82.100 Purpose.

The purpose of this subpart is:

(a) To require warning labels on containers of and products containing or manufactured with certain ozone-depleting substances, pursuant to § 611 of the Clean Air Act, as amended; and

(b) To require permanent labels on products containing ozone-depleting substances that can be recovered or recycled, pursuant to section 608 of the Clean Air Act, as amended.

§ 82.102 Applicability.

(a) On May 15, 1993, the requirements of this subpart shall apply to the following containers and products:

(1) All containers in which a class I or class II substance is stored or transported.

(2) All products containing a class I substance.

(3) All products manufactured with a process that uses a class I substance, unless the Administrator determines for a particular product that there are no substitute products or manufacturing processes for such product that do not rely on the use of a class I substance, that reduce overall risk to human health and the environment, and that are currently or potentially available. If the Administrator makes such a determination for a particular product then the requirements of this subpart are effective for such product no later than January 1, 2015.

(b) On January 1, 2015 in any case, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, the requirements of this subpart shall apply to the following:

(1) All products containing a class II substance.

(2) All products manufactured with a process that uses a class II substance.

(c) On May 15, 1993, the requirements of this subpart shall apply to all products containing a recoverable class I or recoverable class II substance.

§ 82.104 Definitions.

(a) *Class I substance* means any substance designated as class I in the **Federal Register** notice of January 22, 1991 (56 FR 2420) including chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform and any other substance so designated by the Agency at a later date.

(b) *Class II substance* means any substance designated as class II in the **Federal Register** notice of January 22, 1991 (56 FR 2420) including hydrochlorofluorocarbons and any other substance so designated by the Agency at a later date.

(c) *Container* means the immediate vessel in which a controlled substance is stored or transported.

(d) *Containing or Contains* means that a controlled substance is physically held within the structure of the product at the point of sale to the ultimate consumer.

(e) *Controlled substance* means a class I or class II ozone-depleting substance.

(f) *Manufactured with* means that a controlled substance is used in the product's manufacturing process, including the manufacture of any component parts, but the product does not contain the controlled substance at the point of sale to the ultimate consumer. Excluded from the meaning of the phrase "manufactured with" are situations:

(1) Where a product has not had physical contact with the controlled substance, or

(2) Where the controlled substance has been transformed.

(g) *Potentially available* means that adequate information exists to make a determination that the substitute is technologically feasible,

environmentally acceptable and economically viable.

(h) *Principal display panel (PDP)* means the entire portion of the immediate surface of a product, container or its outer packaging that is most likely to be displayed, shown, presented, or examined under customary conditions of retail sale. The area of the PDP is not limited to the portion of the surface covered with existing labeling; rather it includes the entire surface, excluding flanges, shoulders, handles, or necks. For the purposes of determining the proper type size for the warning statement, the area of the PDP is to be computed as follows:

(1) In the case of a square or rectangular product or container, where one entire side is the PDP, the product of the height multiplied by the width of that side shall be the area of the PDP.

(2) In the case of a cylindrical or nearly cylindrical product or container on which the PDP appears on the side, the area of the PDP shall be 40 percent of the product of the height of the container multiplied by its circumference.

(3) In the case of any other shape of product or container, the area of the PDP shall be 40 percent of the total surface of the product or container, excluding flanges, shoulders, handles, or necks. However, if such a product or container presents an obvious PDP (such as an oval or hour-glass shaped area on the side of a container) the area to be measured shall be the entire area of the obvious PDP.

(i) *Product* means an item or category of items manufactured from raw or recycled materials which is used to perform a function or task.

(j) *Recoverable substance* means a controlled substance contained within:

(1) Refrigerating products, including refrigerators, freezers, chillers, dehumidifiers, water coolers, ice machines, air conditioning and heat pump units or

(2) Fire extinguishers.

(k) *Supplemental printed material* means any informational or promotional material (including written advertisements, brochures, circulars, package inserts, desk references, fact sheets, material safety data sheets, and procurement and specification sheets) that is prepared by the manufacturer for display or distribution concerning a product or container, or accompanying such product or container in interstate commerce.

(l) *Transform* means to use and entirely consume a controlled substance by changing it into one or more substances that are not subject to this subpart in the manufacturing process of a product or chemical.

(m) *Type size* means the actual height of the printed image of each capital letter as it appears on a label.

(n) *Ultimate consumer* means the first commercial or noncommercial purchaser of a container or product that is not intended for reintroduction into interstate commerce as a final product or as part of another product.

(o) *Warning label* means the warning statement required by § 611 of the Act and symbol as described in § 82.106.

§ 82.106 Warning label requirements.

(a) *Required warning statements.* Each container or product identified in § 82.102 (a) or (b) shall bear the following warning statement, meeting the requirements of this subpart for placement and form:

Warning: Contains [or Manufactured with, if applicable] [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere.

(b) *Interference with other required labeling information.* The warning statement shall not interfere with, detract from, or mar any labeling information required to be on the PDP by federal or state law.

§ 82.108 Placement of warning label.

The warning label shall be placed so as to satisfy the requirement of the Act that the warning label be "clearly legible and conspicuous." The warning Label is clearly legible and conspicuous if it appears with such prominence and conspicuousness as to render it likely to be read and understood by consumers under normal conditions of purchase. Such placement includes, but is not limited to, the following:

(a) *Display panel placement.* For any affected product or container that has a display panel that is normally viewed by the purchaser at the time of the purchase decision, the warning label described in § 82.106 shall appear on any such display panel of the affected product or container such that it is "clearly legible and conspicuous" at the time of the purchase decision. If the warning label described in § 82.106 appears on the principal display panel of any such affected product or container, the warning label shall qualify as "clearly legible and conspicuous," as long as the label also fulfills all other requirements of this subpart and is not obscured by any outer packaging as required by § 82.108(b).

(b) *Outer packaging.* For any affected product or container that is normally packaged, wrapped, or otherwise covered when viewed by the purchaser at the time of the purchase decision, the warning label described in § 82.106 shall appear on any outer packaging, wrapping or other covering used in the retail display of the product or container, such that the warning label is clearly legible and conspicuous at the time of the purchase decision. If the outer packaging has a display panel that is normally viewed by the purchaser at the time of the purchase decision, the warning label shall appear on such display panel. If the warning label so appears on such product's or container's outer packaging, it need not appear on the surface of the product or container, as long as the label also fulfills all other requirements of this subpart. The warning label need not appear on such outer packaging if either:

(1) The warning statement appears on the surface of the product or container, consistent with paragraph (a) of this section, and is clearly legible and conspicuous through any outer packaging, wrapping or other covering used in retail display; or

(2) The warning statement is placed in a manner consistent with paragraph (c) of this section.

(c) *Alternative placement.* The warning label may be placed on a hang tag, tape, card, sticker, or similar overlabeling that is securely attached to the container, product, outer packaging or display case. In any case, the warning label must be clearly legible and conspicuous under customary conditions of retail sale at the time of the purchase decision.

(d) *Supplemental printed material.* Any manufacturer who prepares supplemental printed material for display or distribution concerning a product or container, or to accompany such a product or container in interstate commerce, may clearly and conspicuously include the warning label in such printed material so that it is provided to consumers at the time of the purchase decision.

§ 82.110 Form of warning label.

(a) *Conspicuousness and contrast.* (1) The warning label shall appear in conspicuous and legible type by typography, layout, and color with other printed matter on the label.

(2) The warning label shall appear in sharp contrast to any background upon which it appears. Examples of combinations of colors which may not satisfy the proposed requirement for sharp contrast are: black letters on a dark blue or dark green background, dark red letters on a light red background, light red letters on a

reflective silver background, and white letters on a light gray or tan background.

(b) *Name of substance.* The name of the controlled substance to be inserted into the warning statement shall be the standard chemical name of the substance as listed in the Federal Register notice of January 22, 1991 (56 FR 2420), except that:

(1) The acronym "CFC" may be substituted for "chlorofluorocarbon."

(2) The acronym "HCFC" may be substituted for "hydrochlorofluorocarbon."

(3) The term "1,1,1-trichloroethane" may be substituted for "methyl chloroform."

(c) *Combined statement for multiple controlled substances.* If a container or product contains or is manufactured with more than one controlled substance, the warning statement may include the names of all of the substances in a single warning statement, provided that the combined statement accurately reflects and clearly distinguishes which substances the container or product contains and which were used in the manufacturing process.

(d) *Format.* (1) The warning statement and symbol shall be blocked together within a square or rectangular area, with or without a border.

(2) The warning label shall appear in lines that are generally parallel to any base on which the product or container rests as it is designed to be displayed for sale.

(e) *Type style.* (1) The ratio of the height of a capital letter to its width shall be such that the height of the letter is no more than 3 times its width.

(2) The signal word "WARNING" shall appear in all capital letters.

(f) *Type size.* The warning statement shall appear at least as large as the type sizes prescribed by this paragraph. The type size refers to the height of the capital letters. A larger type size materially enhances the legibility of the statement and is desirable.

(1) PDP or outer packaging. Minimum type size requirements for the warning statement are given in Table 1 and are based upon the area of the PDP of the product or container. Where the statement is on outer packaging, as well as the PDP, the statement shall appear in the same minimum type size as on the PDP.

TABLE 1

Area of PDP (sq.in.)	0–2	>2–5	>5–10	>10–15	>15–30	>30
Type size (in.):*						
Signal word	3/64	1/16	3/32	7/64	1/8	5/32
Statement	3/64	3/64	1/16	3/32	3/32	7/64

> means greater than.
* minimum height of printed image of letters.

(2) Alternative placement. The minimum type size for the warning statement on any alternative placement which meets the requirements of § 82.108(c) is 3/32 inches for the signal word and 1/16 of an inch for the statement.

(3) Supplemental printed material. The minimum type size for the warning statement on supplemental printed material is 3/32 inches for the signal word and 1/16 of an inch for the statement, or the type size of any surrounding text, whichever is larger.

§ 82.112 Removal of warning label.

(a) *Prohibition on removal.* Except as described in paragraph (b) of this section, any warning label that accompanies a product or container introduced into interstate commerce, as required by this subpart, must remain with the product or container and any product incorporating such product or container, up to and including the point of sale to the ultimate consumer.

(b) *Incorporation of label by subsequent manufacturers.* A manufacturer of a product that incorporates a product or container that is accompanied by a warning label may remove such warning labels from the incorporated product or container if the information on such warning label is incorporated into a warning label accompanying the manufacturer's product.

§ 82.114 Compliance by manufacturers using components.

(a) *Requirement of compliance by manufacturers using components.* Each manufacturer of a product incorporating a component product or container to which this subpart applies that is purchased or obtained from another manufacturer or supplier is required to pass through and incorporate the labeling information that accompanies such incorporated component in a warning label accompanying the manufacturer's finished product.

(b) *Reliance on reasonable belief.* The manufacturer of a product that incorporates a component purchased or obtained from another manufacturer or supplier may rely on the labeling information that it receives with the component, and is not required to independently investigate whether the requirements of this subpart are applicable to the component, as long as the manufacturer reasonably believes that the supplier of the component is reliably and accurately complying with the requirements of this subpart.

(c) *Contractual obligations.* A manufacturer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products manufactured with a controlled substance that are supplied to the manufacturer, is evidence of reasonable belief.

§ 82.116 Compliance by wholesalers, distributors and retailers.

(a) *Requirement of compliance by wholesalers, distributors and retailers.* All wholesalers, distributors and retailers of products or containers to which this subpart applies are required to pass through the labeling information that accompanies the product.

(b) *Reliance on reasonable belief.* The wholesaler, distributor or retailer of a product may rely on the labeling information that it receives with the product or container, and is not required to independently investigate whether the requirements of this subpart are applicable to the product or container, as long as the wholesaler, distributor or retailer reasonably believes that the supplier of the product or container is reliably and accurately complying with the requirements of this subpart.

(c) *Contractual obligations.* A wholesaler, distributor or retailer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products manufactured with a controlled substance that are supplied to the wholesaler, distributor or retailer is evidence of reasonable belief.

§ 82.118 Petitions.

(a) *Requirements for procedure and timing.* Persons seeking to apply the requirements of this regulation to a product containing a class II substance or a product manufactured with a class I or a class II substance which is not otherwise subject to the requirements or to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation may submit petitions after May 15, 1992 to: Labeling Program Manager, Global Change Division, Office of Atmospheric and Indoor Air Programs, U.S. Environmental Protection Agency, ANR–445, 401 M Street, SW., Washington, DC 20460.

(b) *Requirement for adequate data.* Any petition submitted under paragraph (a) of this section shall be accompanied by adequate data, as defined in § 82.118(c). If adequate data are not included by the petitioner, the Agency may return the petition and request specific additional information.

(c) *Adequate data.* A petition shall be considered by the Agency to be supported by adequate data if it includes all of the following:

(1) A part clearly labeled "Section I.A." which contains the petitioner's full name, company or organization name, address and telephone number, the product that is the subject of the petition, and, in the case of a petition to temporarily exempt a product manufactured with a class I substance from the labeling requirement, the manufacturer or manufacturers of that product.

(2) For petitions to temporarily exempt a product manufactured with a class I substance only, a part clearly labeled "Section I.A.T." which states the length of time for which an exemption is requested.

(3) A part clearly labeled "Section I.B." which includes the following statement, signed by the petitioner or an authorized representative:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

(4) A part clearly labeled "Section I.C." which fully explains the basis for the petitioner's request that EPA add the labeling requirements to or remove them from the product which is the subject of the petition, based specifically upon the technical facility or laboratory tests, literature, or economic analysis described in paragraphs (c) (5), (6) and (7) of this section, and the uncertainty and sensitivity analyses described in paragraph (c)(8) of this section.

(5) A part clearly labeled "Section II.A." which fully describes any technical facility or laboratory tests used to support the petitioner's claim.

(6) A part clearly labeled "Section II.B." which fully explains any values taken from literature or estimated on the basis of known information that are used to support the petitioner's claim.

(7) A part clearly labeled "Section II.C." which fully explains any economic analysis used to support the petitioner's claim.

(d) *Criteria for evaluating petitions.* Adequate data in support of any petition to the Agency to add a product to the labeling requirement or temporarily remove a product from the labeling requirement will be evaluated based upon a showing of sufficient quality and scope by the petitioner of whether there are or are not substitute products or manufacturing processes for such product:

(1) That do not rely on the use of such class I or class II substance,

(2) That reduce the overall risk to human health and the environment, and

(3) that are currently or potentially available.

(e) *Procedure for acceptance or denial of petition.* (1) If a petition submitted under this section contains adequate data, as defined under paragraph (c) of this section, the Agency shall within 180 days after receiving the complete petition either accept the petition or deny the petition.

(2) If the Agency makes a decision to accept a petition to apply the requirements of this regulation to a product containing or manufactured with a class II substance, the Agency will notify the petitioner and publish a proposed rule in the **Federal Register** to apply the labeling requirements to the product.

(3) If the Agency makes a decision to deny a petition to apply the requirements of this regulation to a product containing or manufactured with a class II substance, the Agency will notify the petitioner and publish an explanation of the petition denial in the **Federal Register.**

(4) If the Agency makes a decision to accept a petition to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation, the Agency will notify the petitioner and publish a proposed rule in the **Federal Register** to temporarily exempt the product from the labeling requirements.

(5) If the Agency makes a decision to deny a petition to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation, the Agency will notify the petitioner and may, in appropriate circumstances, publish an explanation of the petition denial in the **Federal Register.**

§ 82.120 Recoverable substances label.

(a) *Requirement.* Each product identified in § 82.102(c) that is introduced into interstate commerce shall bear a permanent label stating: "Contains [*insert name of substance*]." This labeling requirement is in addition to the warning label described in § 82.106.

(b) *Name of substance.* The name of the controlled substance to be inserted into the recoverable substances label shall be the standard chemical name of the substance as listed in the **Federal Register** notice of January 22, 1991 (56 *FR* 2420), except that:

(1) The acronym "CFC" may be substituted for "chlorofluorocarbon."

(2) The acronym "HCFC" may be substituted for "hydrochlorofluorocarbon."

(3) The term "1,1,1-trichloroethane" may be substituted for "methyl chloroform."

(c) *Placement.* The recoverable substances label shall be permanently placed on the product containing a recoverable substance such that the label is clearly legible and conspicuous to a service person or disposer at the point of service or disposal.

(d) *Type size.* The type size for any recoverable substances label shall not be less than $\frac{3}{32}$ of an inch.

§ 82.122 Prohibitions.

(a) *Warning label.* (1) Absence or presence of warning label. (i) On May 15, 1993, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning label that complies with the requirements of § 82.106 of this subpart, unless it has been temporarily exempted pursuant to § 82.118.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into

interstate commerce unless it bears a warning label that complies with the requirements of § 82.106 of this subpart.

(2) *Placement of warning label.* (i) On May 15, 1993, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning label that complies with the requirements of § 82.108 of this subpart, unless it has been temporarily exempted pursuant to § 82.118.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning label that complies with the requirements of § 82.108 of this subpart.

(3) *Form of warning label.* (i) On May 15, 1993, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning label that complies with the requirements of § 82.110 of this subpart, unless it has been temporarily exempted pursuant to § 82.118.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Agency determines for a particular product that there are substitute products or manufacturing processes that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning label that complies with the requirements of § 82.110 of this subpart.

(4) On May 15, 1993, no person may modify, remove or interfere with any warning label required by this subpart, except as described in § 82.112 of this subpart.

(b) *Recoverable substances label.* (1) On May 15, 1993, no product containing a recoverable class I or class II substance may be introduced into interstate commerce unless it bears a permanent label that complies with the requirements of § 82.120 of this subpart.

(2) On May 15, 1993, no person may modify, remove or interfere with any recoverable substances label required by this subpart.

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Federal Register

Monday
May 4, 1992

Part III

Department of Labor

Office of the Secretary

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed Construction

(Also Labor Standards Provisions Applicable to Nonconstruction Contracts)

Interim Rule and Request for Comments

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 5

RIN 1215-AA71

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends the definition of "construction" (etc.) in § 5.2(j) of Regulations, 29 CFR Part 5, to conform to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Building and Construction Trades Department, AFL-CIO* v. *United States Department of Labor, Wage Appeals Board* (*Midway Excavators, Inc.*), 932 F. 2d 985 (D.C. Cir. 1991). The Midway decision partially invalidated a portion of these regulations which had regarded, as work covered by Davis-Bacon prevailing wage standards, "* * * the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor * * *" The Midway decision held that the Act's prevailing wage requirements do not extend to material delivery truckdrivers who come onto the site of the work merely to drop off construction materials even if they are employed by the government contractor. The Department is therefore amending the regulations that construe coverage of truck drivers.

DATES: Effective Date: the interim final rule is effective May 4, 1992.

Comments are due on or before July 6, 1992.

ADDRESSES: Submit written comments to Karen R. Keesling, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

As a convenience to commenters, comments may be transmitted by facsimile ("FAX") machine to (202) 523-5122. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S-3506, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This regulation does not contain any new information collection requirements and does not modify any existing requirements as set forth in 29 CFR 5.5(a)(3)(i). Thus, this regulation is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h).

II. Background

The Davis-Bacon Act (DBA or Act), 40 U.S.C. 276a, applies to Federal and District of Columbia contracts for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works. Every contract subject to the Act is required to contain certain stipulations, including a provision" * * * that the contractor or * * * subcontractor shall pay mechanics and laborers employed directly upon the site of the work * * * [not less than the prevailing wage]." Regulations implementing the Act define "construction" to include within the Act's coverage employees of the government construction contractor who work at the "site of the work" and, in addition, employees who transport materials or supplies to and from the covered "site" if employed by the construction contractor or one of its subcontractors (29 CFR 5.2(j)). "Site of the work" is defined as the physical place where the construction will remain when the work is completed, along with certain off-site facilities dedicated to the project that are located in reasonable proximity to the actual construction location (29 CFR 5.2(l)(1) and (2)). The first of these regulatory provisions was at issue during the course of protracted litigation that culminated in the Midway Excavators decision.

In 1981, ESA's Wage and Hour Division (WHD) determined that, under provisions first promulgated in 1941, DBA's prevailing wage requirements applied to truck drivers of Midway Excavators, Inc. (Midway) who picked up gravel and asphalt from various independent commerical suppliers, hauled the material to numerous job sites that were subject to the labor standards provisions of DBA or one of its related Acts, and unloaded the supplies. The drivers spent ninety percent of their workday on the highway driving to and from commerical supply sources, ranging up to 50 miles round trip. They remained "employed directly upon the site of the work" only long enough to drop off their loads, usually for not more than ten minutes at a time. Because they were employed by the construction contractor and not by an independent material supplier, their hauling activities brought them within the express terms of § 5.2(j) of the regulations and, thus, subject to DBA.[1]

Midway appealed the WHD coverage decision to the Department's Wage Appeals Board (WAB). The WAB reversed the WHD ruling in 1983, holding that the drivers were "acting in the place of commerical suppliers" and were, therefore, not covered. (Wage Appeals Board Case No. 81-17 (Dec. 13, 1983).) The Building and Construction Trades Department, AFL-CIO, then challenged the WAB decision in the U.S. District Court for the District of Columbia, and Midway Excavators intervened and filed a cross-claim for return of the funds that were withheld to cover the back wages. On review, the district court reversed the WAB because the decision lacked a rational basis for why the regulations, at § 5.2(j), did not expressly apply to the drivers under the facts in the case. (*Building and Construction Trades Dept., AFL-CIO* v. *United States Department of Labor*, 105 Lab. Cas. (CCH) ¶ 34,851 (D.D.C. 1986).) While the court rejected WAB's view that the drivers should not be covered because they were "functionally equivalent" to commercial suppliers, the court did not address Midway's claim that § 5.2(j)) was inconsistent with DBA's express limitation that covers only workers "employed directly upon the site of the work." Midway appealed.

The appeals court agreed with the district court that the regulations (at § 5.2(j)) clearly applied to the facts in the case, but remanded the case to the district court for it to consider whether the regulatory provisions exceeded the language in the Act. (829 F. 2d 1186 (D.C.

[1] Section 5.2(j) of the regulations defined the terms construction, prosecution, completion, or repair as: all types of work done on a particular building or work at the site thereof * * * including without limitation altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site, painting and decorating, *the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor*, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work * * * by persons employed by the contractor or subcontractor (emphasis added).

Cir. 1987).) The district court deferred to the DOL interpretation on remand, holding that the regulations were a permissible construction of the statutory term "site of the work." (747 F. Supp. 26 (D.D.C. 1990).) Midway again appealed.

The appeals court then reversed the district court. The appeals court considered the Act's language "mechanics and laborers employed directly upon the site of the work * * *" and concluded that "* * * this language unambiguously restricts the coverage of the Act to the geographical confines of the federal project's jobsite, and * * * nothing in the legislative history indicates a contrary meaning. Accordingly, the Secretary's regulation is contrary to that Act and we reverse the district court's decision." (932 F. 2d at 986.) And, further, "[w]e find no ambiguity in the text: 'site of the work' clearly connotes to us a geographic limitation. Thus, the ordinary meaning of the statutory language is that the Act applies only to employees working directly on the physical site of the public building or public work under construction." (*Id.* at 990). And, "[w]e believe that Congress intended the 'site of the work' language to * * * refer to the specific location of the public building or work being constructed or repaired under the government contract." (*Id.* at 990, f.n. 9.)

The court reviewed the Act's legislative history and concluded that Congress intended the Act to apply only to on-site workers and affirmatively intended that it not apply to off-site workers. The court stated there was nothing in the legislative history to support DOL's position that Congress intended the employment status of the worker, *rather than the location of the worker's job*, to be determinative of coverage. (*Id.* at 991.) The court rejected the distinction between truck drivers who are employees of the government contractor and independent truck drivers who, like materialmen, are not directly under contract with the government, and held that "* * * the Act covers only mechanics and laborers who work *on the site* of the federally-funded public building or public work, not mechanics and laborers employed *off-site*, such as suppliers, materialmen, and material delivery truckdrivers, regardless of their employer." (*Id.* at 992, emphasis in original.)

Impact of the Midway Decision

The invalidated regulation, at § 5.2(j), applied the Act to truck drivers employed by government contractors and subcontractors (but not material suppliers) who transport materials to and from the site of a DBA-covered construction project. The Midway court held that this particular provision in the regulations, as applied to the facts in Midway, is inconsistent with the plain meaning of the statutory language, because the Act requires only that government contractors pay prevailing wages to "mechanics and laborers employed directly upon the site of the work." Accordingly, § 5.2(j) of the regulations must be revised to eliminate the provisions that formerly applied the Act to the time spent in the hauling of materials and supplies to or from the site of the work by truck drivers employed by construction contractors or their subcontractors.

The Midway court did not address the validity of the extended "site of the work" definition in § 5.2(l)(2) of the regulations, nor the application of the Act to truck drivers delivering materials from a facility dedicated to the project:

> The validity of [§ 5.2(l)(2)] is not before us at this time. The truck drivers in this case were delivering supplies from independent suppliers to the construction site; they were not delivering supplies from a facility dedicated to the project, which is deemed part of the "site of the work" by the regulation, to the construction site * * * (*Id.* at 989, f.n. 6.)

The court reiterated: "* * * we are not deciding the validity of § 5.2(l)(2) of the Secretary's regulations, which includes in the definition of 'site of the work' manufacturing facilities that are located off-site, so long as the facilities are dedicated exclusively to the contract and are located in proximity to the actual construction site * * *" (*Id.* at 991, f.n. 12.)

The Department's regulations define "site of the work" as being:

> limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in paragraph (l)(2) of this section, other *adjacent* or *nearby* property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site." (29 CFR 5.2(l)(1); emphasis added.)

Paragraph (l)(2) of that section also includes in the site of the work "* * * fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., * * * provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them." Specifically excluded from the site of the work definition are "* * * permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor * * * whose locations and continuance in operation are determined wholly without regard to a particular [covered] project * * * even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a [covered] contract." (29 CFR 5.2(l)(3).)

As the Department interprets Midway, time spent on the site of a dedicated facility and time spent hauling between such a dedicated facility and the actual construction location remain covered.

An interim final rule to implement the holding of the court of appeals in the Midway decision is needed to provide appropriate guidance to contractors and contracting agencies while consideration is given to the comments received on the rule. Because the court invalidated the rule to the extent set forth herein, this rule will be applied to all cases pending on the effective date.

The reasoning followed by the Midway court in reaching its decision also raises questions about other longstanding coverage interpretations that were not directly at issue in Midway. Although the court went to some length to restrict its decision to the particular facts in Midway, the court's broad legal reasoning indicates that other longstanding coverage positions not directly at issue in Midway should be carefully reexamined in light of Midway. The Department believes, upon a careful reading of the court's arguments, that further regulatory changes are appropriate to give full effect to the rationale of the Midway court. The Department has therefore issued a separate, companion rulemaking notice, also published this date in the **Federal Register**, that seeks public comment on additional proposed changes in coverage under the Act as a result of the Midway decision.

III. Summary of the Interim Final Rule

As required by the Midway decision, the rule amends the definition of "construction, prosecution, completion, or repair" in § 5.2(j) of 29 CFR part 5 to eliminate the provision that applies the Act to "* * * the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor * * *." The rule limits coverage of truck drivers who are employed by the construction contractor or a construction subcontractor to only their time spent while employed "directly upon the site of the work." Under this rule, those truck drivers who transport materials to or from the "site of the work" would not be covered for any time spent off-site, but would remain covered for any time

spent directly on the "site of the work." Time spent transporting between the actual construction location and a facility which is deemed a part of the site of the work within the meaning of § 5.2(l) of this part, and the materialman/supplier exception, will continue to be applied as before. Section 5.2(j) has been divided into subsections for clarity.

Executive Order 12291

This interim final rule is not a "major rule" within the meaning of Executive Order 12291, in that it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Regulatory Flexibility Analysis

No notice of proposed rulemaking was required for this rule under 5 U.S.C. 553(b). Therefore, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) pertaining to regulatory flexibility analyses do not apply to this rule. See 5 U.S.C. 601(2).

Publication as an Interim Final Rule

The Secretary has determined that the public interest requires the immediate issuance of this interim final rule in order to comply with the decision of the United States Court of Appeals for the District of Columbia Circuit in *Building and Construction Trades Department, AFL–CIO* v. *United States Department of Labor, Wage Appeals Board (Midway Excavators, Inc.)*, 932 F.2d 985 (D.C. Cir. 1991), regarding the coverage of material delivery truck drivers employed by contractors or subcontractors under the Davis-Bacon Act, and to give necessary guidance to contractors and to contracting agencies.

Accordingly, the Secretary for good cause finds that, pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d), prior notice and public comment and a delay in the effective date are impracticable and contrary to the public interest. However, interested parties are invited to submit comments on this regulation and on the companion proposed rule by [insert the date 60 days after publication]. Following evaluation of the comments received, a further proposal or a final regulation, modified as necessary, will be published.

This document was prepared under the direction and control of Karen R. Keesling, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 5

Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR part 5, subpart A, of the Code of Federal Regulations is amended as set forth below.

Signed at Washington, DC, on this 28th day of April, 1992.

Lynn Martin,

Secretary of Labor.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

1. The authority citation for part 5 continues to read as follows:

Authority: 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; 29 U.S.C. 259; and the statutes listed in 5.1(a) of this part.

2. Section 5.2 is amended by revising paragraph (j) as follows:

§ 5.2 Definitions.

* * * * *

(j) The terms *construction, prosecution, completion,* or *repair* mean the following:

(1) All types of work done on a particular building or work at the site thereof, including work at a facility which is dedicated to and deemed a part of the site of the work within the meaning of section 5.2(l) of this part by laborers and mechanics employed by a construction contractor or construction subcontractor (or, under the United States Housing Act of 1937 and the Housing Act of 1949, all work done in the construction or development of the project), including without limitation—

(i) Altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site;

(ii) Painting and decorating;

(iii) Manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work (or, under the United States Housing Act of 1937 and the Housing Act of 1949, in the construction or development of the project); and

(iv) Transportation between the actual construction location and a facility which is dedicated to such construction and deemed a part of the site of the work within the meaning of § 5.2(l) of this part.

(2) Except for laborers and mechanics employed in the construction or development of the project under the United States Housing Act of 1937 and the Housing Act of 1949, and except as provided in paragraph (j)(1)(iv) of this section, the transportation of materials or supplies to or from the building or work by employees of the construction contractor or a construction subcontractor is not "construction" (etc.) (see *Building and Construction Trades Department, AFL–CIO* v. *United States Department of Labor Wage Appeals Board (Midway Excavators, Inc.)*, 932 F.2d 985 (D.C. Cir. 1991)).

* * * * *

[FR Doc. 92–10299 Filed 4–29–92; 2:38 pm]

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Monday
May 4, 1992

Part IV

Department of Labor

Office of the Secretary

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction; Proposed Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 5

RIN 1215-AA71

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking, request for comments.

SUMMARY: The Department of Labor proposes to amend the definition of "construction" at section 5.2(j) of the regulations issued under the Davis-Bacon and Related Acts, 29 CFR part 5, in response to a decision of the U.S. Court of Appeals for the District of Columbia Circuit. In *Building and Construction Trades Department, AFL-CIO* v. *United States Department of Labor Wage Appeals Board (Midway Excavators, Inc.),* 932 F. 2d 985 (D.C. Cir. 1991), the court of appeals invalidated a portion of these regulations to the extent that the prevailing wage requirements of the Davis-Bacon Act were applied to material delivery truck drivers employed by a construction contractor or subcontractor while transporting materials to the construction project site from independent commercial supply sources. The court held that such truck drivers, who spent most of their time off-site and came onto the actual project site only for brief periods merely to drop off their deliveries, were not covered by the Davis-Bacon Act. The Department proposes to revise the regulations that construe the applicability of the Act in light of this court decision and also seeks the public's views on whether the Department should consider making certain additional changes affecting other aspects of the Act's coverage that, while related in principle, were not directly at issue in the *Midway* case. A separate interim final rule is being published this date to implement the court's holding.

DATES: Comments are due on or before July 6, 1992.

ADDRESSES: Submit written comments to Karen R. Keesling, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S-3502, 200 Constitution Avenue, NW. Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. As a convenience to commenters, comments may be transmitted by facsimile ("FAX") machine to (202) 523-5122. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S-3506, 200 Constitution Avenue, NW. Washington, DC 20210. Telephone (202) 523-8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

While the Department has invited input from the public on the potential effects of the timekeeping requirements that result from the proposed application of DBA under this regulation, this regulation itself does not contain any new information collection requirements and does not modify any existing requirements as set forth in 29 CFR 5.5(a)(3)(i). Thus, this regulation is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h).

II. Background

The Davis-Bacon Act (DBA or Act), 40 U.S.C. 276a, applies to Federal and District of Columbia contracts for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works. Every contract subject to the Act is required to contain certain stipulations, including a provision "* * * that the contractor or * * * subcontractor shall pay mechanics and laborers employed directly upon the site of the work [not less than the prevailing wage]." Regulations implementing the Act define "construction" to include within the Act's coverage employees of the government construction contractor who work at the "site of the work" and, in addition, employees who transport materials or supplies to and from the covered "site" if employed by the construction contractor or one of its subcontractors (29 CFR 5.2 (j)). "Site of the work" is defined as the physical place where the construction will remain when the work is completed, along with certain off-site facilities dedicated to the project that are located in reasonable proximity to the actual construction location (29 CFR 5.2(1) (1) and (2)). The court reviewed the first of these regulatory provisions during the course of protracted litigation that culminated in the *Midway Excavators* decision.

In 1981, ESA's Wage and Hour Division determined that DBA's prevailing wage requirements applied to truck drivers of Midway Excavators, Inc. (Midway) who picked up gravel and asphalt from various independent commercial suppliers, hauled the material to numerous job sites that were subject to the labor standards provisions of DBA or one of its related Acts, and unloaded the supplies. The *Midway* drivers spent ninety percent of their workday on the highway driving to and from commercial supply sources, ranging up to 50 miles round trip. They remained "employed directly upon the site of the work" only long enough to drop off their loads, usually for not more than ten minutes at a time. Because they were employed by the construction contractor and not by an independent material supplier, their hauling activities brought them within the express terms of § 5.2(j) of the regulations and, thus, subject to DBA.[1]

Midway appealed the coverage decision of the Wage and Hour Division to the Department's Wage Appeals Board (WAB). The WAB reversed the Wage and Hour ruling in 1983, holding that the drivers were "acting in the place of commerical suppliers" and were therefore not covered. (Wage Appeals Board Case No. 81-17 (Dec. 13, 1983).) The Building and Construction Trades Department, AFL-CIO, then challenged the WAB decision in the U.S. District Court for the District of Columbia, and Midway Excavators intervened and filed a cross-claim for return of the funds that were withheld to cover the back wages. On review, the district court reversed the WAB because the decision lacked a rational basis for why the regulations, at § 5.2(j), did not expressly apply to the drivers under the facts in the case. (*Building and Construction Trades Dept., AFL-CIO* v. *United States Department of Labor,* 105 Lab. Cas. (CCH) ¶ 34,851 (D.D.C. 1986).) While the court rejected WAB's view that the drivers should not be covered

[1] Section 5.2(j) of the regulations defined the terms construction, prosecution, completion, or repair as: all types of work done on a particular building or work at the site thereof * * * including without limitation, altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work * * * by persons employed by the contractor or subcontractor (emphasis added).

because they were "functionally equivalent" to commercial suppliers, the court did not address Midway's claim that § 5.2(j) was inconsistent with DBA's express limitation that covers only workers "employed directly upon the site of the work." Midway appealed.

The appeals court agreed with the district court that the regulations (at § 5.2(j)) clearly applied to the facts in the case, but remanded the case to the district court for it to consider whether the regulatory provisions exceeded the language in the Act. (829 F. 2d 1186 (D.C. Cir. 1987).) The district court deferred to the DOL interpretation on remand, holding that the regulations were a permissable construction of the statutory term "site of the work." (747 F. Supp. 26 (D.D.C. 1990).) Midway again appealed.

The appeals court then reversed the district court. The appeals court considered the Act's language "mechanics and laborers employed directly upon the site of the work * * *" and concluded that "* * * this language unambiguously restricts the coverage of the Act to the geographical confines of the federal project's jobsite, and * * * nothing in the legislative history indicates a contrary meaning. Accordingly, the Secretary's regulation is contrary to that Act and we reverse the district court's decision." (932 F. 2d at 986.) And, further, "[w]e find no ambiguity in the text: 'site of the work' clearly connotes to us a geographic limitation. Thus, the ordinary meaning of the statutory language is that the Act applies only to employees working directly on the physical site of the public building or public work under construction." (*Id.* at 990). And, "[w]e believe that Congress intended the 'site of the work' language to * * * refer to the specific location of the public building or work being constructed or repaired under the government contract." (*Id.* at 990, f.n. 9.)

The court reviewed the Act's legislative history and concluded that Congress intended the Act to apply only to on-site workers and affirmatively intended that it not apply to off-site workers. The court stated there was nothing in the legislative history to support DOL's position that Congress intended the employment status of the worker, rather than the location ofthe worker's job, to be determiative of coverage. (*Id.* at 991.) The court rejected the distinction between truck drivers who are employees of the government contractor and independent truck drivers who, like materialmen, are not directly under contract with the government, and held that "* * * the Act covers only mechanics and laborers who work on the site of the federally-funded public building or public work, not mechanics and laborers employed off-site, such as suppliers, materialmen, and material delivery truckdrivers, regardless of their employer." (*Id.* at 992, emphasis in original.)

III. Impact of the Midway Decision

A. Definition of "Construction"

The invalidated regulation, which defines the terms "construction," "prosecution," "completion," and "repair" at § 5.2(j), applied the Act to, among other activities, truck drivers employed by government contractors and subcontractors (but not material suppliers) who transport materials to and from the site of a DBA-covered construction project. The *Midway* court held that this particular provision in the regulations is inconsistent with the plain meaning of the statutory language, because the Act requires only that government contractors pay prevailing wages to "mechanics and laborers employed directly upon the site of the work."

Accordingly, § 5.2(j) of the regulations must be revised to eliminate the provisions that formerly applied the Act to truck drivers employed by construction contractors or their subcontractors who deliver materials or supplies to or from the construction project site. The Department has issued a separate rule, also published this date in the Federal Register to implement this holding of the *Midway* decision. Under the interim final rule, truck drivers employed by a construction contractor or construction subcontractor are not covered by DBA prevailing wage requirements while engaged in transporting materials or supplies to or from (but not directly on) the site of the work. Coverage of such truck drivers is limited to only their time spent while employed "directly upon the site of the work." They would also be covered while hauling between the project site and any special facilities established exclusively for the project (i.e., "dedicated facilities" under 29 CFR 5.2(1)(2)).

Midway's truck drivers were, in fact, "employed directly upon the site of the work" for a minor portion of their work day, but the court specifically noted the relative insignificance of the amount of time that they were so engaged:

> * * * Congress directed that Davis-Bacon prevailing wages be paid to "mechanics and laborers employed directly upon the site of the work." 40 U.S.C. § 276a(a). The question in this case is whether material delivery truckdrivers, who are employees of the contractor, *but who work off-site most of the time and come on-site only to drop off a delivery*, are "mechanics and laborers employed directly upon the site of the work." (*Id.* at 989 (emphasis added).)
>
> * * * * *
>
> In this case, the material delivery truckdrivers came on-site for only ten minutes at a time to drop off their deliveries. Their time spent "directly upon the site of the work" constituted only ten percent of their workday * * * No one has argued in this appeal that the truckdrivers were covered because they were on the construction site for this brief period of the workday. (*Id.* at 989, f.n. 5.)
>
> * * * * *
>
> In sum, * * * Congress intended the ordinary meaning of its words; the phrase "mechanics and laborers employed directly upon the site of the work" restricts coverage of the Act to employees who are working directly on the physical site of the public building or public work being constructed. Material delivery truckdrivers who come onto the site of the work merely to drop off construction materials are not covered by the Act even if they are employed by the government contractor. We hold that 29 CFR 5.2(j), insofar as it includes off-site material delivery truckdrivers in the Act's coverage, is invalid. Therefore, Midway's material delivery truckdrivers are not covered by the Davis-Bacon Act * * *" (*Id.* at 992 (emphasis added).)

The Department believes that, under *Midway*, truck drivers who spend most of their time off-site, as "site" is defined in the regulations, and who come on-site only incidentally to deliver or pick up a load of material and perform only those activities (such as loading, unloading, waiting) that are essential to the delivery or hauling of material to or from the site, should not be subject to the Act even if they are employed by the construction contractor or a construction subcontractor. (This result, in effect, extends the traditional "materialman/supplier" exception to any truck drivers employed directly by a government construction contractor to perform the same supplier function, but does so because such drivers do not spend a sufficient amount of their time "employed directly upon the site of the work" and not because of who the employer is.)

On the other hand, as the Department interprets *Midway*, if truck drivers employed by a construction contractor were to spend more than an incidental amount of time, i.e., a substantial amount of time "employed directly upon the site of the work", they should be subject to the Act's protections for such time.

The *Midway* court, while not directly addressing the issue of coverage of on-site time which is incidental to the

delivery and picking up of materials, did hold that the *Midway* truck drivers who were engaged in making deliveries to the site were not covered under DBA even though they spent brief periods of time on the site. The Department believes that it is therefore implicit in the court's decision that small amounts of on-site time, incidental to delivering materials to the site from off-site or hauling materials away from the site to an off-site location, would not be covered by the Act. The court did not express a view as to how much time directly on the site it would have considered sufficient to cover the *Midway* drivers. Accordingly, the Department believes that further notice-and-comment rulemaking is necessary to develop the appropriate standards and is, therefore, proposing criteria to be added for determining when truck drivers employed by a construction contractor or subcontractor who come onto the site only to deliver and pick up materials are covered by the Act.

With respect to what constitutes a "substantial" amount of time, the Department is confronted with similar questions of coverage and the applicability of DBA, but in different contexts not related to truck drivers. For example, when determining the proper category of construction for wage determination purposes (building, residential, highway, or heavy), separate wage rate schedules are applied to a project if the project includes structures in more than one category and the amount of construction in each is "substantial," either in relation to the overall project (a figure of 20 percent or more of total project cost is applied as a guide) or in absolute dollar amount. Separate wage rate schedules are common, for example, in water and sewage treatment projects that generally include both building and non-building structures. These guidelines were prescribed by the Wage and Hour Division in All Agency Memoranda Nos. 130 (March 17, 1978) and 131 (July 14, 1978).

In terms of individual employee classifications, the definition of "laborer or mechanic" in § 5.2(m), for example, provides that foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria for exemption as a bona fide "executive" under 29 CFR part 541, are considered laborers or mechanics for the time so spent.

The Department proposes to define "incidental" as less than 20 percent of an employee's workday or workweek. Thus, if a truck driver employed by a construction contractor or subcontractor were to spend less than 20 percent of his or her time in a workday and workweek on a covered site of work engaged exclusively in activities essential to the hauling of material to or from the site, he or she would be considered not subject to DBA on the days or weeks so employed.

The Department seeks comments regarding whether it is appropriate to define a specific percentage of time spent in such activities which would be incidental, or whether such determinations should be based on the facts of the particular case. The Department also seeks comments on whether, if a specific percentage should be set, 20 percent would be the appropriate percentage.

The Department proposes no change in the coverage of hauling activities that are performed entirely on the site itself; such on-site hauling would continue to be covered as before. Only hauling activities performed on-site that are essential to, and performed in connection with, the delivery or hauling of materials or supplies to or from the site would not be covered under this proposal, and then only if the time spent directly on the site is not substantial (i.e., is "incidential").

A different question is presented, however, in the case of a truck driver who, in addition to performing a delivery/hauling function, also performs additional duties on-site that are not related to the delivery or hauling of material from locations which are not on the site of the work. Such activities performed on-site unrelated to the off-site delivery/hauling function were not at issue in the *Midway* decision and should, therefore, continue to be subject to the Act. The question presented, when both types of activity are being performed by a single employee on a work site subject to DBA, is whether to consider together all the time engaged in on-site activities, or to consider only the time engaged in on-site activities which are essential to the off-site hauling, when determing whether the time engaged in such essential activities is substantial and therefore subject to DBA prevailing wage requirements.

The Department has set forth below two alternative proposed options for determining whether the time spent on-site by such truck drivers, when engaged in activities essential to off-site hauling, would be subject to DBA prevailing wage standards, and seeks comments on each alternative proposed option. In the first option (Option A), time spent on-site by truck drivers when engaged exclusively in activities essential to the off-site hauling function would not be subject to DBA labor standards unless the time so engaged exceeded 20 percent of the employee's working time in a workday or workweek. However, any time spent on-site by such drivers performing activities which are not essential to the off-site hauling function would be covered by DBA without regard to a time threshold (independent of the time engaged in activities essential to the off-site haul), provided such activities meet the definition of "construction," (etc.). When determining if the 20 percent threshold is met by a particular truck driver who engages in both types of activity, the time spent in each type of activity is viewed separately and is not combined (i.e., only the time engaged in activities essential to the delivery/hauling function is added together to determine if it exceeds 20 percent).

The second option (Option B) is similar to the first option except that the time spent by a driver performing both types of activities would not be considered separately, but would be combined when determining if the total time spent on-site exceeds the 20 percent threshold.

The Department also seeks information from commenters on the nature and scope of (including time spent in) on-site activities that may be performed by truck drivers that would be essential and that would not be essential to the off-site delivery or hauling functions under this rule, and the frequency and duration of such activities under typical hauling scenarios that would be impacted by the rule under each alternative.

We also recognize that this proposed application of DBA to truck drivers only while they are physically located "directly upon the site of the work" could present some new difficulties for employers in terms of their ability to maintain accurate time records for the time their truck driver employees spend on the site of the work. Construction contractors may not be accustomed to separating their truck drivers' time records based on the point in time that such employees enter onto or exit from a DBA-covered "site of the work." [2] Accordingly, while the proposed rule has been drafted to apply the Act's prevailing wage requirements only to time spent "employed directly upon the site of the work" by truck drivers engaged in hauling to and from the site

[2] Under the existing DBA regulations, contractors must maintain and preserve payrolls and basic records for all laborers and mechanics working at the site of the work. See 29 CFR 5.5(a)(3)(i).

of the work where it is more than incidental, comments are also requested on any special compliance problems and possible solutions to the timekeeping requirements that result from the proposed application of DBA.

It should be noted that DBA prevailing wage requirements are limited under the Act to covered mechanics and laborers employed on the site by "the contractor or his subcontractor." As we interpret the *Midway* decision, the "materialman/supplier" exception continues to apply to commercial suppliers and independent trucking companies hired by such commercial suppliers whose deliveries to the site are merely incidental to the sale of construction materials and supplies from commercial supply sites not set up to serve exclusively, or nearly exclusively, any particular construction contract or project, and we have, therefore, proposed no changes in this regard.

B. Should the Definition of "Site of the Work" Be Changed?

The reasoning followed by the *Midway* court in reaching its decision also calls into question other traditional coverage interpretations that were not directly at issue under the facts in *Midway*. Although the court went to some length to restrict its decision to the particular facts in *Midway*, the court's broad legal reasoning indicates that other traditional coverage positions not directly at issue in *Midway* should be carefully reexamined in light of *Midway*. The court's statements, for example, that coverage is restricted in a geographic sense to only those persons "employed directly upon the site of the work" raise questions concerning regulatory provisions that define the "site of the work" in § 5.2(l).

The Department's regulations define "site of the work" as being:

> Limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in paragraph (1)(2) of this section, other *adjacent* or *nearby* property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site." [29 CFR 5.2(l)(1); emphasis added.]

Paragraph (1)(2) of that section also includes in the site of the work "* * * fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., * * * provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them." Specifically excluded from the site of the work definition are "* * * permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor * * * whose locations and continuance in operation are determined wholly without regard to a particular [covered] project * * * even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a [covered] contract." [29 CFR 5.2(1)(3).]

The *Midway* court did not directly question the validity of the extended "site of the work" definition in § 5.2(1)(2) of the regulations, nor the application of the Act to truck drivers delivering materials from a facility dedicated to a particular covered project:

> The validity of [§ 5.2(1)(2)] is not before us at this time. The truckdrivers in this case were delivering supplies from independent suppliers to the construction site; they were not delivering supplies from a facility dedicated to the project, which is deemed part of the "site of the work" by the regulation, to the construction site * * * [*Id.* at 989, f.n. 6.]

The court reiterated: "* * * we are not deciding the validity of § 5.2(1)(2) of the Secretary's regulations, which includes in the definition of 'site of the work' manufacturing facilities that are located off-site, so long as the facilities are dedicated exclusively to the contract and are located in proximity to the actual construction site * * *" [*Id.* at 991, f.n. 12.]

In light of the *Midway* court's repeated emphasis that, as used in the DBA, "site of the work" clearly connotes a geographic limitation and, thus, the Act applies only to employees working directly on the physical site of the public building or public work under construction, the Department seeks comments on the following issues:

(1) Is the regulatory definition of "site of the work" at § 5.2(1) viable or should it be revised, particularly in paragraph (1)(2), which includes as a part of the covered "site of the work" certain dedicated facilities utilized by a covered construction contractor or subcontractor that are not technically on the physical site of the building or work under construction?

(2) If dedicated facilities should remain covered as a part of the "site," should truck drivers be covered for the time spent hauling between such a dedicated facility and the site of the actual construction? [3]

(3) In light of *Midway*, would it be appropriate to establish a maximum limit for the geographic proximity test in §§ 5.2(1) (1) and (2) of the site of the work definition?*

The regulatory changes proposed herein do not include changes to the site of work definition in § 5.2(1)(2). In addition, under the interim final rule also published this date, activities performed at dedicated facilities under § 5.2(1)(2) remain covered. If, however, based on the rulemaking record, a decision is made to revise § 5.2(1)(2) to change application of the Act to dedicated, nearby facilities, the Department may not regard the hauling time between such locations as a covered activity, and comments are specifically invited on this possible coverage result. The Department requests that commenters consider these issues in light of the *Midway* decision and include in their comments particular views of the legal reasoning in the court's decision that address these aspects of coverage.

Proposed revisions to 29 CFR 5.2(j) are set forth below in the form of two options. In addition, public comments are invited on the economic impact of the proposed changes, the questions set forth above, and on the additional issues presented. Comments should also address any special compliance difficulties that would occur in connection with the various issues presented.

Executive Order 12291

The Department believes that this proposed rule is not a "major rule" within the meaning of Executive Order 12291, in that it is not expected to result in: (1) An annual effect on the economy

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[3] The theory for covering the haul between a dedicated facility and the site of the public building or work being constructed is that typically such hauls originate from "* * * other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the site," as the definition provides (§ 5.2(1)(1)). The site therefore can be considered to include the area between the dedicated facility and the actual construction location. Furthermore, the time spent technically off-site on the open road in such cases would typically be incidental in relation to the time spent on the dedicated facilities and the actual construction location, according to the express terms of the definition.

* There are factual situations under which the haul between a dedicated facility and the actual construction location can involve a considerable distance, e.g., nine to twelve (or more) miles. (See, as one example, *United Construction Co., Inc.*, WAB Case No. 82–10 (Jan. 14, 1983), in which the Department's Wage Appeals Board held that a contractor's asphalt batch plant located 1.8 miles to 55 miles from various sites at a dam and reservoir project was part of the covered "site.") The "close proximity" justification inherent in the site of work definition for covering the haul between a dedicated facility and the actual construction location becomes more strained as such distances grow larger. (See, also *ATCO Construction, Inc.*, WAB Case No. 86–1 (Aug. 22, 1986), in which the Board included a temporary fabrication shop for modular housing units built in Portland, Oregon, 3,000 miles from Adak Naval Air Station, Alaska, where the units were erected, as part of the "site of the work.")

of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

The Department has determined that the proposed regulation will not have a significant economic impact on a substantial number of small entities. The proposal implements modifications resulting from a court decision that reduces the scope of Davis-Bacon coverage as applied to all construction contractors and subcontractors, both large and small, that employ truck drivers. The Secretary of Labor has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, no regulatory flexibility analysis is required.

Document Preparation

This document was prepared under the direction and control of Karen R. Keesling, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 5

Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR part 5, subpart A, of the Code of Federal Regulations is proposed to be amended as set forth below.

Signed at Washington, DC, on this 28th day of April, 1992.

Lynn Martin,

Secretary of Labor.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

1. The authority citation for part 5 continues to read as follows:

Authority: 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; 29 U.S.C. 259; and the statutes listed in 5.1(a) of this part.

2. Section 5.2 is proposed to be amended by revising paragraph (j) as follows:

§ 5.2 Definitions.

* * * * *

(j) The terms *construction, prosecution, completion,* or *repair* mean the following:

(1) All types of work done on a particular building or work at the site thereof, including work at a facility which is dedicated to and deemed a part of the site of the work within the meaning of § 5.2(l) of this part by laborers and mechanics employed by a construction contractor or a construction subcontractor (or, under the United States Hosuing Act of 1937 and the Housing Act of 1949, all work done in the construction or development of the project), including without limitation—

(i) altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site;

(ii) painting and decorating;

(iii) manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work (or, under the United States Housing Act of 1937 and the Housing Act of 1949, in the construction or development of the project); and

(iv) transportation between the actual construction location and a facility which is dedicated to such construction and deemed a part of the site of the work within the meaning of § 5.2(l) of this part.

(2) Except for laborers and mechanics employed in the construction or development of the project under the United States Housing Act of 1937 and the Housing Act of 1949, and except as provided in paragraph (j)(1)(iv) of this section, the transportation of materials or supplies to or from the building or work by employees of the construction contractor or a construction subcontractor is not "construction," (etc.). In addition, any time spent on the site of work by such truck drivers (and their assistants) when engaged exclusively in activities essential to the hauling of materials or supplies to and the unloading thereof at the site of the work, and/or the loading of materials (such as debris, dirt, asphalt, etc.) and other activities at the site of the work that are essential to the hauling of materials away from the site of the work, is not "construction", (etc.) within the meaning of paragraph (1) above where the time spent by such employees directly upon the site of the work is only incidental. (See *Building and Construction Trades Dept., AFL–CIO* v. *United States Dept. of Labor Wage Appeals Board (Midway Excavators, Inc.)*, 932 F. 2d 985 (D.C. Cir. 1991).)

Option A:

(3) In determining whether the time spent at the site of the work by an employee engaged in the activities described in paragraph (j)(2) of this section is incidental, the following guidelines shall be applied:

(i) An employee of a construction contractor or construction subcontractor who is employed directly upon the site of the work as a truck driver (or an assistant) performing activities essential to the delivery or hauling of material by such employee to or from the site of the work—

(A) is subject to the labor standards of this part for all the time so spent at the site of the work on any *day* that such time equals or exceeds 20 percent of his or her total hours worked that workday;

(B) is subject to the labor standards of this part for all the time so spent at the site of the work during any workweek that such total on-site time, when accumulated from all workdays in the workweek, equals or exceeds 20 percent of his or her total hours worked in the workweek; and

(C) is not subject to the labor standards of this part for any of the time so spent at the site of the work *provided* That such time is less than 20 percent of his or her total hours worked in each workday of the workweek and is less than 20 percent of his or her total hours worked in such workweek.

(ii) An employee of a construction contractor or construction subcontractor employed as a truck driver (or an assistant) and engaged in delivery/hauling of material to or from the site of the work who also engages in activities not essential to such delivery/hauling function while at the site of the work is not engaged in incidental activities within the meaning of paragraph (j)(2) of this section and is subject to the labor standards of this part for all the time

spent directly upon the site of the work performing such activities not essential to the off-site delivery/hauling function which must meet the definition of "construction," (etc.).

* * * * *

Option B:

(3) In determining whether the time spent at the site of the work by an employee engaged in the activities described in paragraph (j)(2) of this section is incidental, the following guidelines shall be applied:

(i) An employee of a construction contractor or construction subcontractor who is employed directly upon the site of the work as a truck driver (or an assistant) performing activities essential to the delivery or hauling of material by such employee to or from the site of the work—

(A) is subject to the labor standards of this part for all the time spent at the site of the work on any *day* that such time equals or exceeds 20 percent of his or her total hours worked that workday:

(B) is subject to the labor standards of this part for all the time spent at the site of the work during any *workweek* that such total on-site time, when accumulated from all workdays in the workweek, equals or exceeds 20 percent of his or her total hours worked in the workweek; and

(C) is not subject to the labor standards of this part for the time so spent at the site of the work *provided* That the total time spent on the site of work is less than 20 percent of his or her total hours worked in each workday of the workweek *and* is less than 20 percent of his or her total hours worked in such workweek.

(ii) An employee of a construction contractor or construction subcontractor employed as a truck driver (or an assistant) and engaged in delivery/hauling of material to or from the site of the work who also engages in activities not essential to such delivery/hauling function while at the site of the work is not engaged in incidental activities within the meaning of paragraph (j)(2) of this section and is subject to the labor standards of this part for all the time spent directly upon the site of the work performing such activities not essential to the off-site delivery/hauling function which meet the definition of "construction," (etc.).

* * * * *

[FR Doc. 92-10300 Filed 4-29-92; 2:38 pm]
BILLING CODE 4510-23-M

federal register

Monday
May 4, 1992

Part V

Department of Education

Pell Grant Program; 1992-93 Award Year Zero Pell Grant Index (PGI) Charts; Notice

DEPARTMENT OF EDUCATION

Pell Grant Program; 1992-93 Award Year Zero Pell Grant Index (PGI) Charts

AGENCY: Department of Education.

ACTION: Publication of the 1992-93 Award Year Zero Pell Grant Index (PGI) Charts.

SUMMARY: The Secretary publishes the Zero Pell Grant Index (PGI) Charts for institutions to use when verifying application information under the Pell Grant Program. The use of the Zero PGI Charts is authorized by § 668.59(a)(2) of the Student Assistance General Provisions regulations. These regulations seek to improve the efficiency of Federal student aid programs and, by so doing, to improve their capacity to enhance opportunities for postsecondary education. Encouraging students to graduate from high school and to pursue high quality postsecondary education are important elements of the President's AMERICA 2000 strategy to move the Nation toward achieving the National Educational Goals.

SUPPLEMENTARY INFORMATION: The Pell Grant Program provides grant assistance to financially needy students to help them meet the cost of postsecondary education. To receive a Pell Grant, a student must submit an application to the Secretary that contains financial and non-financial information that permits the Secretary to determine the student's PGI. The PGI is an amount that the student and his or her family might reasonably be expected to contribute toward the student's cost of a postsecondary education.

The Secretary notifies the student of his or her PGI in a document called a Student Aid Report (SAR). In the SAR, the Secretary also includes the information the applicant reported on the application. The Secretary uses this information to calculate the student's PGI.

To assure that applicants for Pell Grants provide accurate information on their applications, the Secretary may require some applicants to verify and update the information submitted on the application. The regulations governing this verification process are in the Student Assistance General Provisions regulations, 34 CFR part 668, subpart E. Generally, under these regulations, if an applicant is required to change any of the information on his or her application, the applicant must make the changes on the SAR that he or she received and must resubmit that revised SAR to the Secretary.

However, there are some circumstances where the updated application information will not change the student's PGI and, under those circumstances, the Secretary does not require the applicant to resubmit the SAR. Under § 668.59(a)(2) of the Student Assistance General Provisions regulations, the Secretary does not require an applicant to resubmit the changed SAR to the Secretary if the applicant has a PGI of zero and the institution that the applicant is attending can determine by using verified information and the Zero PGI Charts that the applicant's PGI will remain at zero.

The Zero PGI Charts are a simplified version of the formula the Secretary uses in calculating an applicant's PGI. The charts may be used only if:

- The applicant's dependency status does not change, and
- The applicant's (and Spouse's) income and assets and the parental income and assets of a dependent student do not exceed specified amounts.

An institution may use the Zero PGI Charts to calculate a Pell Grant applicant's PGI if the following criteria are satisfied. (These criteria are based upon sections 411A through 411F of the Higher Education Act of 1965, as amended (HEA).)

For Students Qualified To Use the Simplified Needs Test

1. The effective income of a single, dependent student is less than $4,201 in calendar year 1991.
2. The effective income of a married, dependent student and spouse is less than $6,001 in calendar year 1991.
3. The effective family income of an unmarried, independent student without dependent children is less than $6,401 in calendar year 1991.
4. The effective family income of a married, independent student without dependents is less than $8,001 in calendar year 1991 if the student does not qualify to use the full employment expense offset (EEO), or the effective family income is less than $9,501 if the student is qualified to use the full EEO.
5. The effective family income of an independent student with one dependent (other than a spouse) is less than $9,501 in calendar year 1991.

For Dependent Students [1] Using the Regular Needs Test

1. The effective income of a single, dependent student is less than $4,201.
2. The effective income of a married, dependent student is less than $6,001.
3. Dependent student and spouse net assets equal zero.[2]
4. Net home assets of parents are less than $30,001.[2]
5. Net business assets (exclusive of farm assets) of parents are less than $80,001.
6. Net farm assets (or a combination of net farm and net business assets) of parents are less than $100,001.
7. Net parental assets, other than home, farm, or business assets are less than $25,001.
8. Combined net parental business, home, and other assets (exclusive of farm assets) are less than $110,001.[2]
9. Combined net parental farm, business, home, and other assets are less than $130,001.[2]

For Independent Students [3] Using the Regular Needs Test

1. The effective family income of an unmarried, independent student without dependent children is less than $6,401.
2. The effective family income of a married, independent student without dependents is less than $8,001 if the student is not qualified to use the full EEO, or the effective family income is less than $9,501 if the student is qualified to use the full EEO.
3. The effective family income of an independent student with one dependent (other than spouse) is less than $9,501.
4. The assets of an unmarried, independent student without dependent children are equal to zero.[4]
5. Net home assets of an unmarried, independent student with a dependent, or a married, independent student without dependents, or a married, independent student with dependents other than the spouse are less than $30,001.[4]
6. Net business assets (exclusive of farm assets) are less than $80,001.
7. Net farm assets (or a combination of net farm and net business assets) are less than $100,001.

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[1] If a student, the student's spouse, or parent(s) is a dislocated worker as defined in Title III of the Job Training Partnership Act or has filed under Special Conditions (§ 690.32 of the Pell Grant regulations) use calendar year 1992 expected year income. For all others, use income received during calendar year 1991.

[2] If a student, student's spouse, or parent is a dislocated worker as defined in Title III of the Job Training Partnership Act or displaced homemaker as defined in Section 480(e) of the HEA, the net asset value of a principal residence shall be considered zero.

[3] If a student or the student's spouse is a dislocated worker as defined in Title III of the Job Training Partnership Act or has filed under Special Conditions (§ 690.31 of the Pell Grant regulations) use calendar year 1992 expected income. For all others, use income received in calendar year 1991.

8. The net value of assets, other than home, farm, or business assets is less than $25,001.

9. Combined net business, home, and other assets (exclusive of farm assets) are less than $110,001.[4]

10. Combined net farm, business, home, and other assets are less than $130,001.[4]

Zero PGI—Chart A

Use if applicant *is* eligible for full employment expense offset (EEO) [5] an applicant's PGI is zero if:

The correct household size is—	And the verified effective family income (EFI) is less than—
2	$9,501
3	11,301
4	14,001
5	16,401
6	18,101
7	20,101
8	22,101
9	24,101
10	26,101
11	28,101
12	30,101
13	32,101
14	34,101

For a dependent student:

(1) The parents of the student are married and both parents earned income of $3,000 or more; or

(2) The parent of the student qualified as a head of household for Federal income tax purposes and the parent earned income of $3,000 or more.

For an independent student with dependents:

(1) Both the student and the spouse combined earned income of $3,000 or more; or

(2) The student qualified as a head of household for Federal income tax purposes and the student earned income of $3,000 or more.

ZERO PGI—Chart B

Use if applicant is not eligible for full employment expense offset (EEO) [6]

[4] If a student or the student's spouse is a dislocated worker as defined in title III of the Job Training Partnership Act or a displaced homemaker as defined in section 480(e) of the HEA the net asset value of a principal residence shall be considered zero.

[5] Use chart A if—

[6] Use this chart if you cannot use Chart A.

An applicant's PGI is zero if—	
The correct household size is—	And the verified effective family income (EFI) is less than—
1	$6,401
2	8,001
3	9,801
4	12,501
5	14,901
6	16,601
7	18,601
8	20,601
9	22,601
10	24,601
11	26,601
12	28,601
13	30,601
14	32,601

Effective Family Income (EFI)

Effective family income equals total income minus the sum of (1) Federal income taxes paid or payable, (2) the tax allowance calculated under the Tax Allowance Percentage Table included in this Notice, and (3) excludable income, as defined below.

Effective Income (EI)

Effective income equals the adjusted gross income of the student (and spouse) reported on the U.S. income tax return of the preceeding award year, or income earned from work not reported on a U.S. income tax return in the case of non-tax filers and the total untaxed income and benefits minus (1) any excludable income and (2) the amount of U.S. income tax paid or payable. Total income equals the adjusted gross income (determined for tax filers from the U.S. income tax return or income earned from work not reported on a U.S. income tax return in the case of non-tax filers), the total untaxed income and benefits of the student's parents (for a dependent student) or of the student and spouse (for an independent student), and one-half of the student's Veterans Administration (VA) educational benefits (under chapters 34 and 35 of title 38 of the United States Code).

Excludable Income

Excludable income includes:

- For a Native American student, individual payments of $2,000 or less received by the student (and spouse and the student's parents) under the Per Capita Act or the Distribution of Judgment Funds Act, or any income received under the Alaska Native Claims Settlement Act or the Maine Indian Claims Settlement Act.
- Income of a divorced or separated spouse of a student or of a student's deceased spouse.
- Student financial assistance, except certain veterans' or social security benefits.
- Unemployment compensation received by a dislocated worker in accordance with Title III of the Job Training Partnership Act.
- Income or capital gains from the sale of a farm or business assets of the family if the sale resulted from a voluntary or involuntary foreclosure, forfeiture, bankruptcy or involuntary liquidation.

TAX ALLOWANCE PERCENTAGE TABLE

If state, or territory of residence is—	and total income is—	
	Less than $15,000	Or $15,000 or more
		Then the percentage is—
Alabama	.07	.06
Alaska	.03	.02
American Samoa	.04	.03
Arizona	.07	.06
Arkansas	.07	.06
California	.09	.08
(Canada	.09	.08)
Colorado	.08	.07
Connecticut	.08	.07
Delaware	.09	.08
District of Columbia	.11	.10
Federated States of Micronesia	.04	.03
Florida	.05	.04
Georgia	.08	.07
Guam	.04	.03
Hawaii	.11	.10
Idaho	.09	.08
Illinois	.08	.07
Indiana	.07	.06
Iowa	.09	.08
Kansas	.08	.07
Kentucky	.08	.07
Louisiana	.04	.03
Maine	.10	.09
Marshall Islands	.04	.03
Maryland	.11	.10
Massachusetts	.11	.10
(Mexico	.09	.08)
Michigan	.12	.11
Minnesota	.12	.11
Mississippi	.07	.06
Missouri	.07	.06
Montana	.07	.06
Nebraska	.09	.08
Nevada	.04	.03
New Hampshire	.07	.06
New Jersey	.10	.09
New Mexico	.05	.04
New York	.14	.13
North Carolina	.09	.08
North Dakota	.06	.05
Northern Mariana Islands	.04	.03
Ohio	.09	.08
Oklahoma	.07	.06
Oregon	.11	.10
Pennsylvania	.09	.08
Puerto Rico	.03	.02
Rhode Island	.11	.10
South Carolina	.09	.08
South Dakota	.05	.04
Tennessee	.05	.04

TAX ALLOWANCE PERCENTAGE TABLE—Continued

If state, or territory of residence is—	and total income is—	
	Less than $15,000	Or $15,000 or more
		Then the percentage is—
Texas	.04	.03
Utah	.09	.08
Vermont	.09	.08
Virgin Islands (U.S.)	.04	.03
Virginia	.09	.08
Washington	.06	.05
West Virginia	.07	.06
Wisconsin	.13	.12
Wyoming	.03	.02
Trust Territory of the Pacific Islands (Palau)	.04	.03

TAX ALLOWANCE PERCENTAGE TABLE—Continued

If state, or territory of residence is—	and total income is—	
	Less than $15,000	Or $15,000 or more
		Then the percentage is—
Blank or Invalid State	.09	.08

Sections 411B, 411C and 411D of the HEA.

FOR FURTHER INFORMATION CONTACT: Adara L. Walton, Chief, or Joseph Vettickal, Program Analyst, Verification Development Section, State Grant and Verification Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., ROB–3, room 4613, Washington, DC 20202–5451, Telephone: (202) 708–4601. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, D.C. (202) area code, telephone 708–9300) between 8 a.m. and 7 p.m, Eastern time.

Authority: (20 U.S.C. 1094)

(Catalog of Federal Domestic Assistance No. 84.063 Pell Grant Program)

Dated: April 27, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–10343 Filed 5–1–92; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Monday
May 4, 1992

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25, 121, and 135
Improved Access to Type III Exits; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121, and 135

[Docket No. 26530, Amdt. Nos. 25-76, 121-228 and 135-43]

RIN 2120-AC46

Improved Access to Type III Exits

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Federal Aviation Regulations (FAR) to require improved access to the Type III emergency exits (typically smaller over-wing exits) in transport category airplanes with 60 or more passenger seats. These changes are the results of tests that were conducted at the FAA's Civil Aeromedical Institute (CAMI), and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. They affect air carriers and commercial operators of transport category airplanes as well as the manufacturers of such airplanes.

EFFECTIVE DATE: June 3, 1992.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, FAA, Regulations Branch (ANM-114), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2114.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 91-11 which was published in the **Federal Register** on April 9, 1991 (56 FR 14446). In that notice, the FAA proposed amendments to the FAR that would require improved access to Type III passenger emergency exits in transport category airplanes with 20 or more passenger seats.

As defined in § 25.807(a)(3) of part 25 of the FAR, a Type III passenger emergency exit must have an opening that is not less than 20 inches wide by 36 inches high. It need not be rectangular in shape, provided a rectangle of those dimensions can be inscribed within the opening. The corner radii must not be greater than one-third the width of the exit. The step-up distance inside the cabin must not be more than 20 inches. Type III exits are typically over-wing exits; when so located, the step down to the wing must not be more than 27 inches. Type III exits are typically removable hatches; however, they may be hinged or tracked doors.

Although specific passageways are not currently defined, access from each aisle to each Type III exit is required by § 25.813(c). Additionally, § 25.813(c) requires, for airplanes with 20 or more passenger seats, that the projected opening of the Type III exit may not be obstructed and that there must be no interference (e.g. by seats, berths, etc.) in opening the exit. For airplanes with 19 or fewer passenger seats, there may be minor obstructions in this region if there are compensating factors to maintain the effectiveness of the exit.

In September 1985, the FAA convened a Public Technical Conference on Emergency Evacuation of Transport Airplanes in response to issues raised by various sectors of the public regarding the adequacy of existing regulations involved with emergency evacuation. One of the issues discussed was access to Type III exits. As a result of questions posed at this conference, a series of tests was conducted by CAMI to evaluate the ease with which exits can be opened and the effect of passageway width on flow through them. The CAMI report, No. DOT/FAA/AM-89/14—The Influence of Adjacent Seating Configurations on Egress Through a Type III Emergency Exit, is available from the National Technical Information Service, Springfield, Virginia 22161. In addition, a copy of the report is included in the docket for this rulemaking proceeding. As described in the report, the first set of tests was run with a total of 131 subjects—three groups of 33 each and one group of 32. The evacuation rates of the four groups evacuating through a Type III exit were measured in these tests. Each group was tested in four separate runs, passing through four diffent access configurations on their way to the exit. This set of tests used the principles of Latin Square testing. (The Latin Square test, which is defined in FAA Order FS 8110.12, dated May 21, 1964, is a procedure used in evaluating two or more different exit configurations. It is used to factor out differences in test subject groups and experience gained by the groups in succeeding test runs.) The four access configurations were:

A—the current minimum access required by § 25.813(c), which resulted in an unobstructed passageway of approximately 6 inches;

B—a configuration which had a minimum of 10 inches of unobstructed passageway to the exit, with the leading edge of the seat botton cushion of the row of seats aft of the exit located on the centerline of the exit (see Figure 1);

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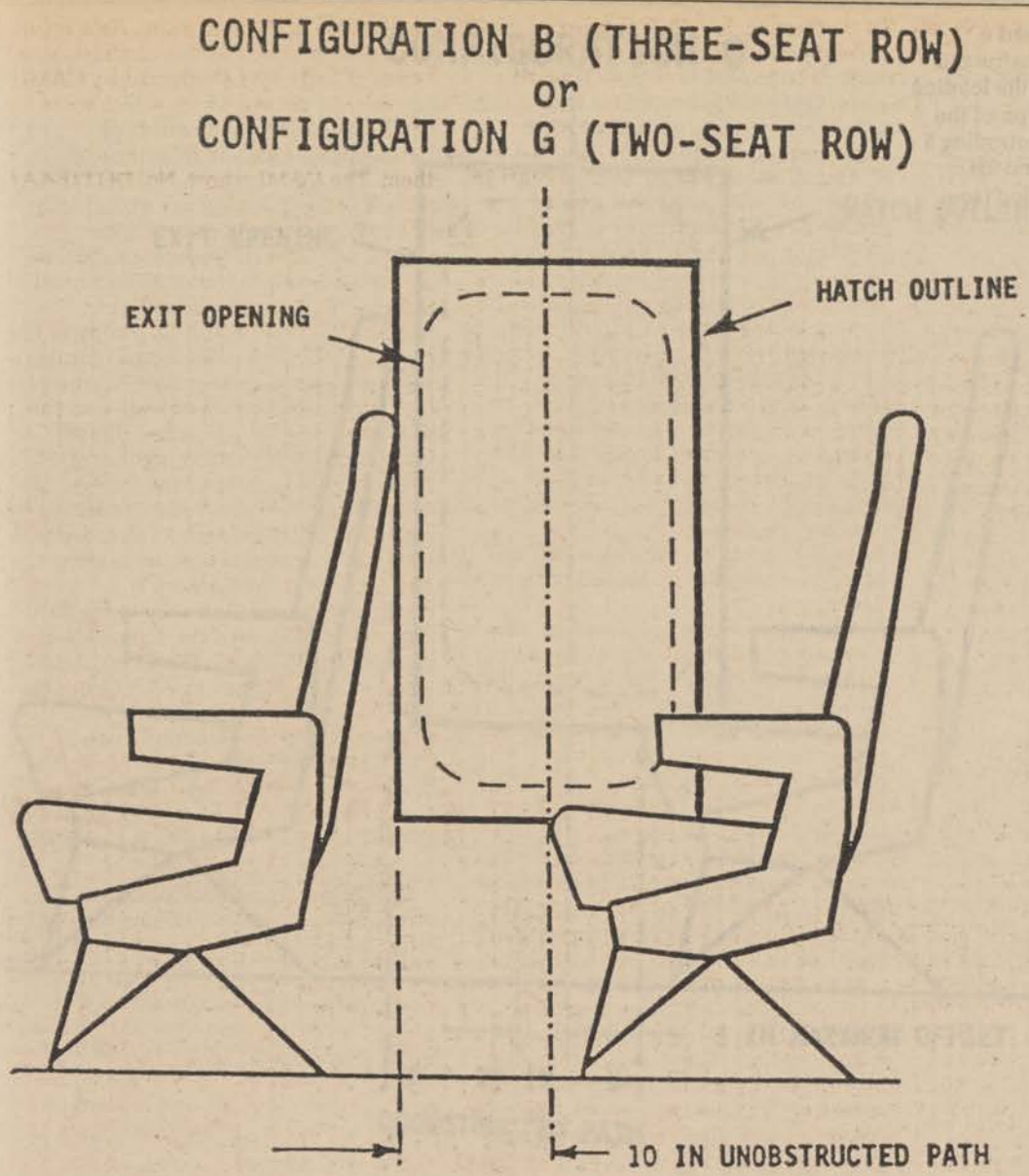

Figure 1

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C—a configuration which had a minimum of 20 inches of unobstructed passageway to the exit, with the leading edge of the seat bottom cushion of the row of seats aft of the exit protruding 5 inches forward of the projected aft vertical edge of the exit opening (see Figure 2);

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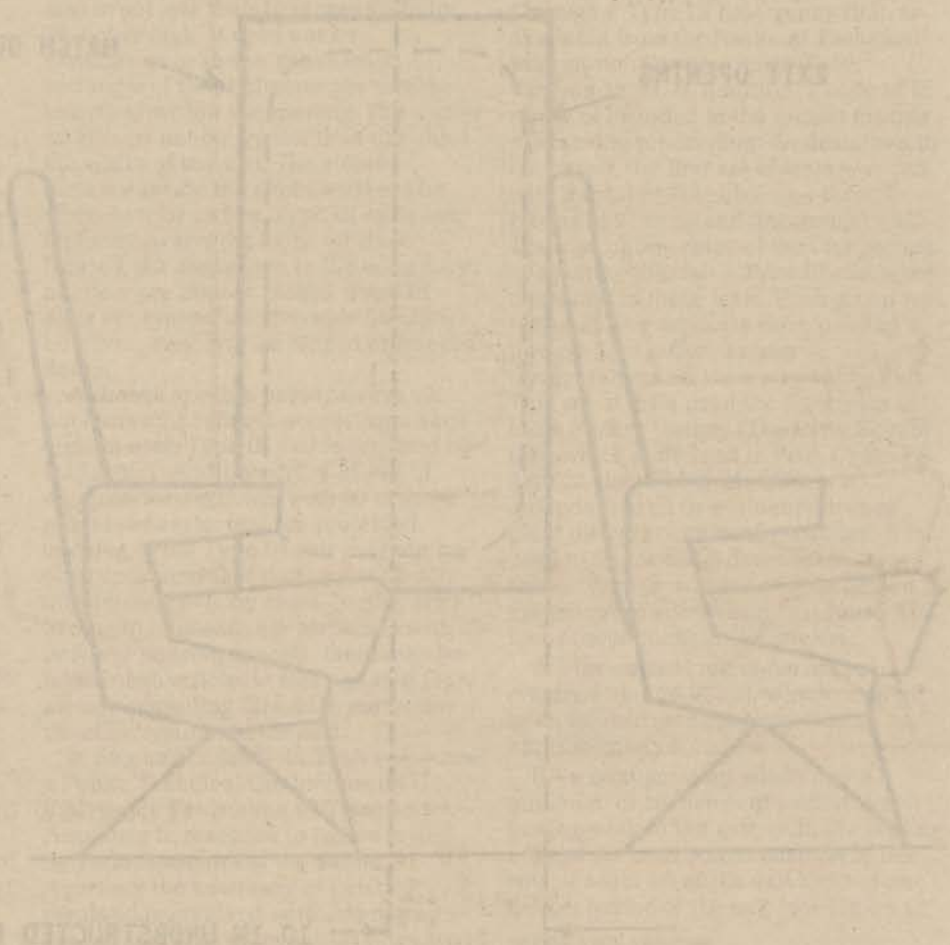

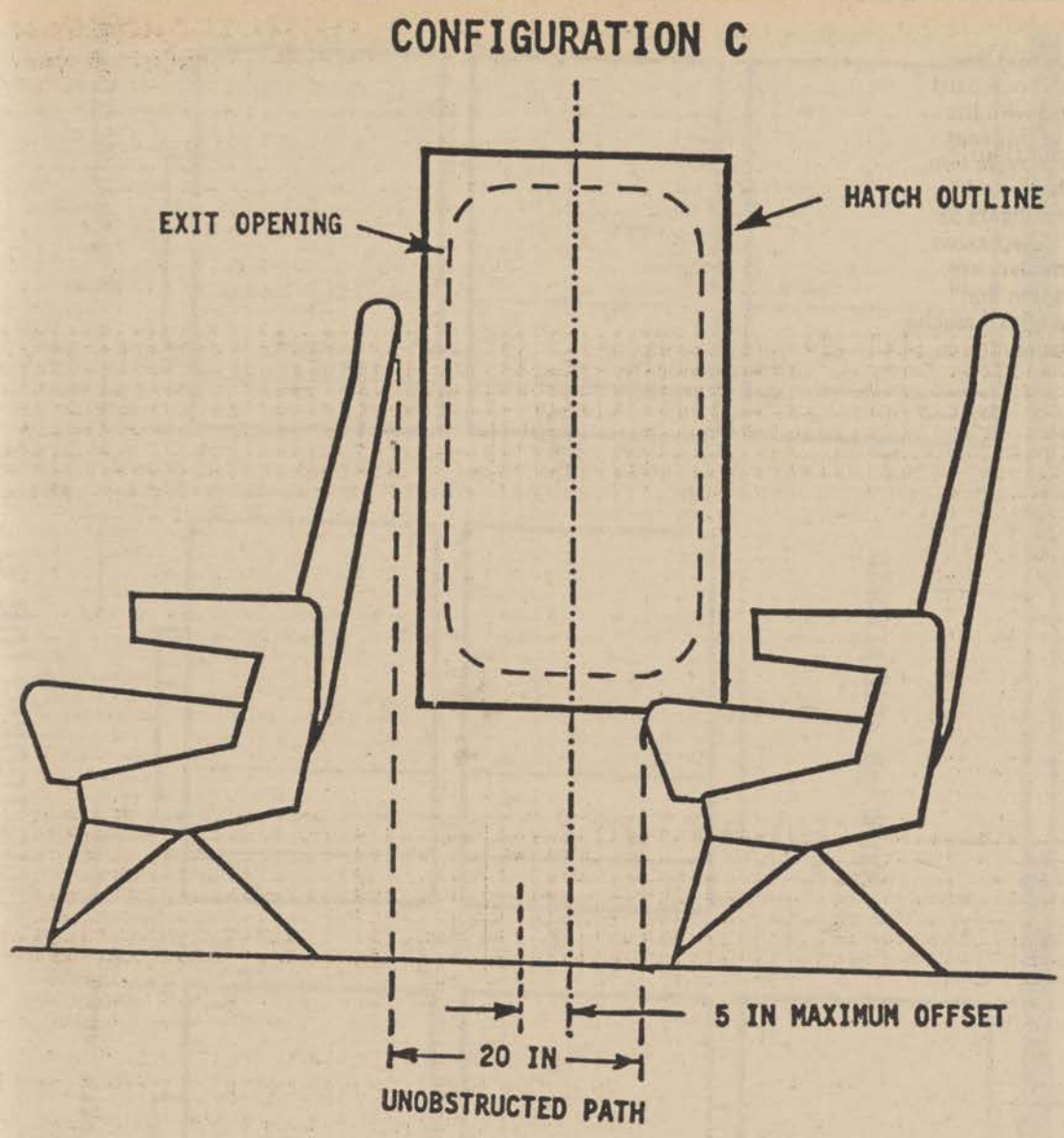

Figure 2

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and

D—a configuration with a seat row centered on the exit, with the outboard seat of that row deleted, and with the seat rows forward and aft of this seat row spaced at 32 inches to provide two. approximatley 6-inch, unobstructed passageways to the exit (see Figure 3). As discussed below under "Discussion of Comments," some commenters are under the erroneous impression that Configuration C was tested with a much narrower passageway to the exit.

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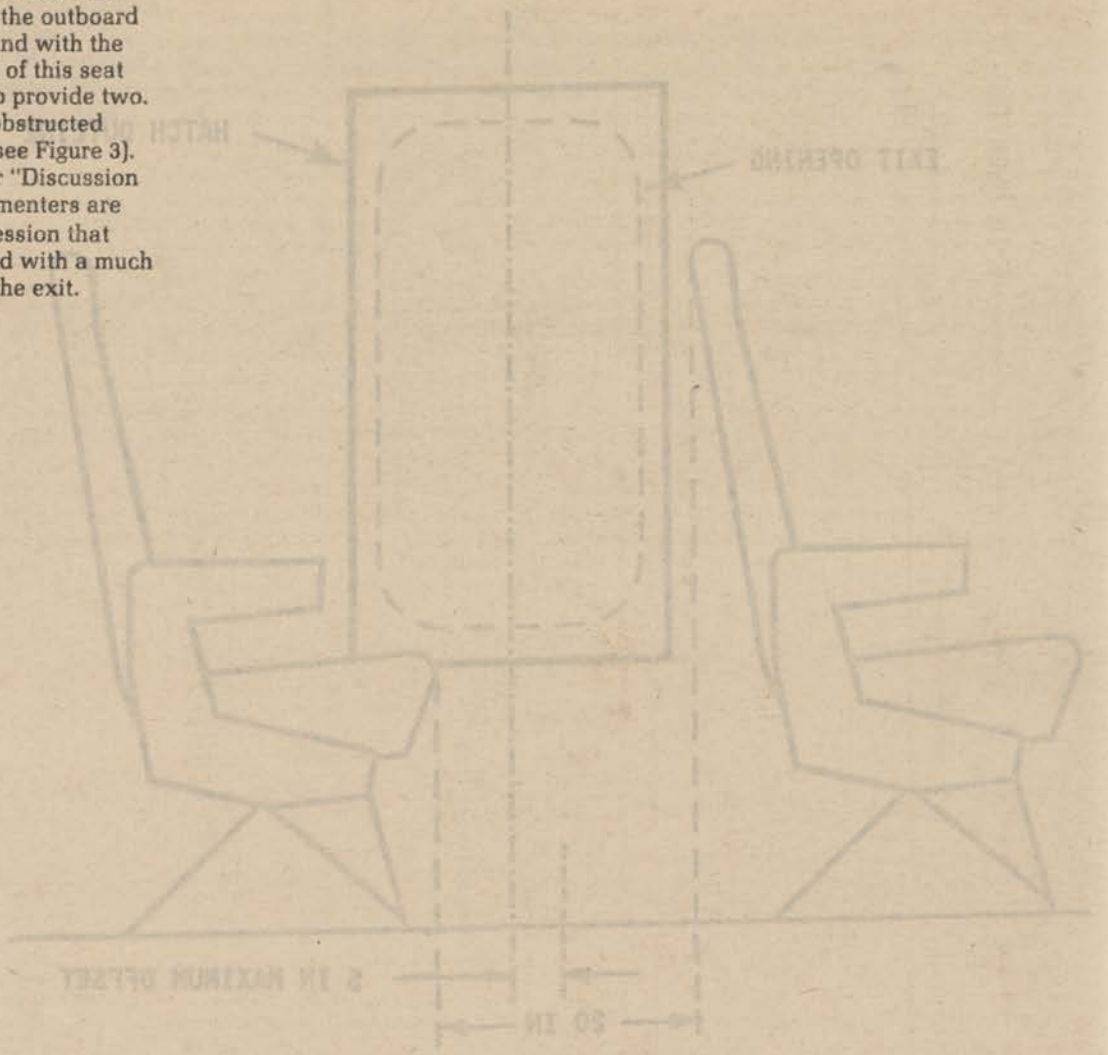

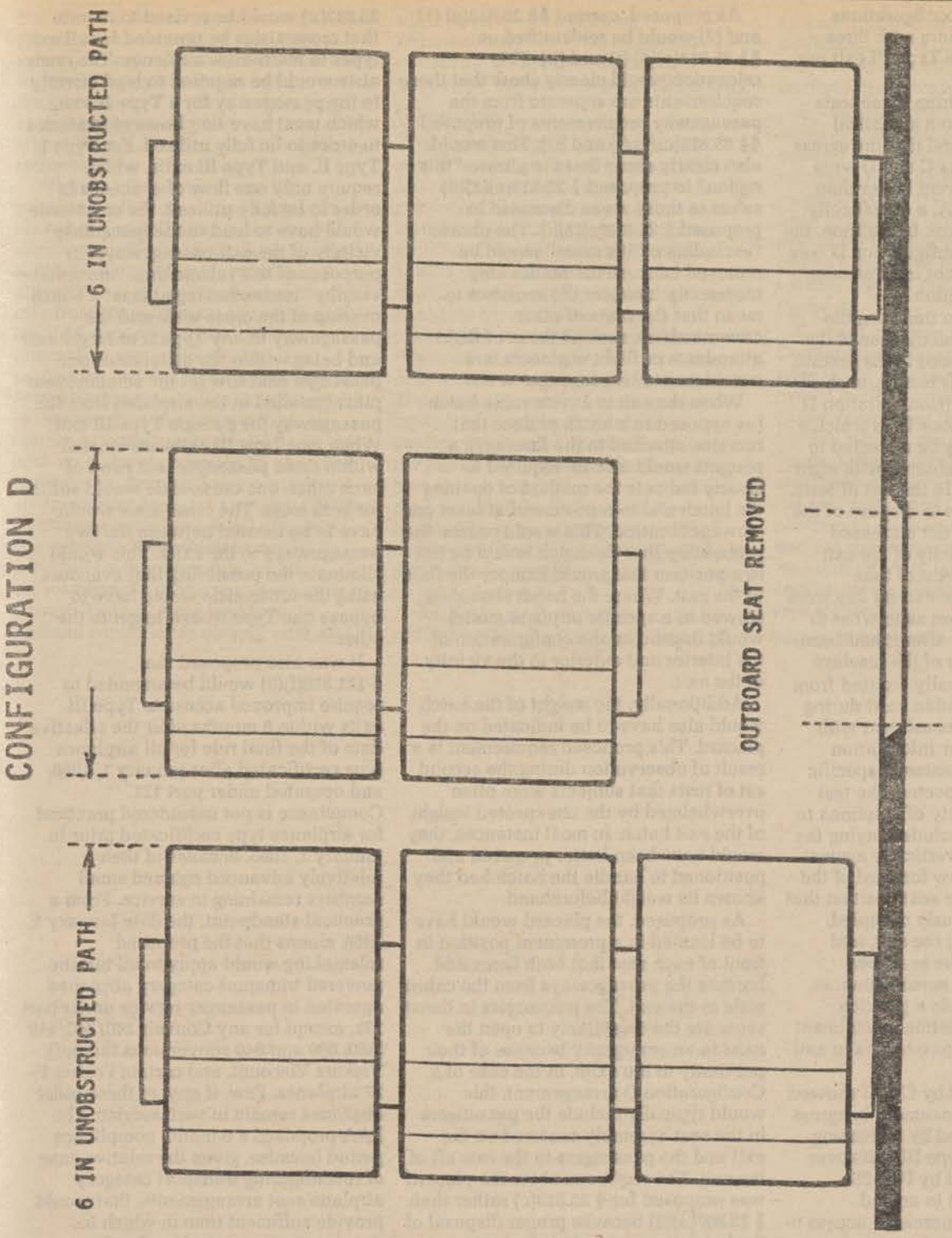

Figure 3

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Each of the above configurations simulated cabin interiors with three seats per row and one Type III exit per side.

The data obtained from these tests were then subjected to a statistical evaluation. It was found that the egress rates of Configurations C and D were approximately 14 percent better than that of Configuration A, a statistically significant improvement. In addition, the rate of egress from Configuration D was a statistically significant improvement over that of Configuration B.

The exit preparation time, i.e., the time it took to open and dispose of the exit hatch, was measured in the second set of tests. During this testing, each of five seating locations (Configuration D has two seating locations from which a person can reasonably be expected to open the exit) was evaluated with eight subjects per location. In this set of tests, the questions of where to dispose of the hatch and whether or not increased work space in the vicinity of the exit would reduce the amount of time required to prepare the exit for use were studied. Any instruction as to what to do with the exit hatch after it had been removed from the side of the fuselage mockup was intentionally omitted from the passenger information card during the testing. This was consistent with some airline passenger information cards that do not recommend specific stowage areas. As expected, the test subjects found a variety of solutions to the question. These included laying the hatch horizontally or vertically against the back of the seat row forward of the exit or vertically in the seat position that the opener had previously occupied, throwing the hatch out the exit, and placing the hatch on the seat row forward of the exit. In some instances, the hatch was stowed in a position considered to be a possible impediment to the smooth flow of passengers to and through the exit.

The tests conducted by CAMI showed that a significant improvement in egress rates could be achieved by increasing the access space to Type III exits over that currently required by Part 25. Notice 91–11 proposed to amend § 25.813(c) to require increased access to Type III exits from the nearest main aisle on airplanes with a seating configuration of 20 or more. The rule proposed in that notice would require that passageways be provided as described in either test configuration C or D, which are defined in proposed §§ 25.813(c)(1) (i) and (ii), respectively. These passageways are projected vertically with respect to the airplane floor.

As proposed, current §§ 25.813(c) (1) and (2) would be reidentified as §§ 25.813(c)(2) (i) and (ii). This relocation would clearly show that these requirements are separate from the passageway requirements of proposed §§ 25.813(c)(1) (i) and (ii). This would also clearly show that the phrase "this region" in proposed § 25.813(c)(2)(ii) refers to those areas discussed in proposed § 25.813(c)(2)(i). The phrase "excluding pilot's seats" would be removed because the reader may incorrectly interpret the sentence to mean that the seats of other crewmembers, such as those of flight attendants or flight engineers, are considered to be passenger seats.

When the exit is a removable hatch (as opposed to a hatch or door that remains attached to the fuselage), a placard would also be required to clearly indicate the method of opening the hatch and to recommend at least one stowage location. This would reduce the probability that the hatch would be left in a position that would hamper the flow to the exit. Where the hatch should be stowed in a specific airplane model would depend on the configuration of the interior and exterior in the vicinity of the exit.

Additionally, the weight of the hatch would also have to be indicated on the placard. This proposed requirement is a result of observation during the second set of tests that subjects were often overwhelmed by the unexpected weight of the exit hatch. In most instances, they would have been better prepared and positioned to handle the hatch had they known its weight beforehand.

As proposed, the placard would have to be located in a prominent position in front of each seat that both faces and borders the passageways from the cabin aisle to the exit. The passengers in these seats are the most likely to open the exits in an emergency because of their proximity to the exits. In the case of a Configuration D arrangement, this would typically include the passengers in the seat assembly centered on the exit and the passengers in the row aft of the exit. The requirement for the placard was proposed for § 25.813(c) rather than § 25.807(a)(3) because proper disposal of the hatch is an important factor in maintaining access to the exit.

For multi-aisle airplanes, an unobstructed 20-inch cross-aisle would be required between the main aisles in the vicinity of each Type III exit, except that one cross-aisle may serve two Type III exits that are within three passenger seat rows of each other. Cross-aisles are currently required for Type A, Type I, and Type II exits by § 25.813(a). Section 25.813(a) would be revised to require that cross-aisles be provided for all exit types in multi-aisle airplanes. The cross-aisle would be required to lead directly to the passageway for a Type A exit, which must have two flows of evacuees in order to be fully utilized. For Type I, Type II, and Type III exits, which require only one flow of evacuees in order to be fully utilized, the cross-aisle would have to lead to the immediate vicinity of the exit passageway. For purposes of this rulemaking, "immediate vicinity" means having at least a 5-inch overlap of the cross-aisle and the passageway to any Type II or larger exit and being within the distance of one passenger seat row (at the smallest seat pitch installed in the airplane) from the passageway for a single Type III exit. When two Type III exits are located within three passenger seat rows of each other, one cross-aisle would suffice for both exits. The cross-aisle would have to be located between the two passageways to the exits. This would eliminate the possibility that evacuees using the cross-aisle would have to bypass one Type III exit to get to the other.

It was also proposed that § 121.310(f)(3) would be amended to require improved access to Type III exits within 6 months after the effective date of the final rule for all airplanes type certificated after January 1, 1958, and operated under part 121. Compliance is not considered practical for airplanes type certificated prior to January 1, 1958, because of their relatively advanced age and small numbers remaining in service. From a practical standpoint, the date January 1, 1958, means that the proposed rulemaking would apply to all turbine-powered transport category airplanes operated in passenger service under part 121, except for any Convair 240/340/440 (580, 600 and 640 conversions thereof), Vickers Viscount, and certain Fokker F–27 airplanes. Few, if any, of these older airplanes remain in such service. The FAA proposed a 6-month compliance period because, given the relative ease of reconfiguring transport category airplane seat arrangements, that would provide sufficient time in which to develop engineering plans for the required change, procure the necessary parts, and reconfigure the airplanes. The proposed compliance period was based on the assumption that affected operators would elect to comply by changing seat pitch or removing a seat adjacent to the Type III exit.

Section 135.177 presently incorporates the provisions of § 121.310 by reference. It has come to the attention of the FAA

that the practice of incorporating certain provisions of part 121 in part 135 by reference may cause confusion. In order to preclude any confusion in this regard, the provisions of § 121.310, including the changes proposed in Notice 91-11, would be included in part 135 explicitly rather than by reference.

While the CAMI tests and the proposed rules focus upon increased access to Type III exits in the area directly adjacent to such exits, the FAA noted that it would also consider alternative means of increasing the flow rate from Type III exits. In that regard, the FAA proposed to accept any alternative seat configuration, exit procedure, or other change that would accomplish an equivalent improvement in the flow rate. As proposed, an air carrier or manufacturer desiring to use such an alternative would be expected to establish, through a test procedure acceptable to the Administrator, that the alternative achieves a level of safety equivalent to that which would be provided by the proposals for an improvement in passenger evacuation through Type III exits, and that the airplane continues to comply with all other applicable regulatory requirements. The FAA requested comments on the desirability of employing this alternative methodology.

Other Tests

In anticipation of questions that would be raised concerning possible alternative configurations, the FAA conducted another series of flow rate tests to obtain comparative data for additional configurations. In order to ensure that FAA resources were not wasted testing configurations that were unusable for other reasons, the suggestions of the Airline transport Association of America (ATA) were obtained at a meeting held June 25, 1991. The discussion at that meeting was limited to possible alternative configurations; discussion concerning the merits of the proposed rulemaking was neither entertained nor permitted. As a result of the discussion, it was concluded that a planned test of a configuration similar to Configuration C except for an 18 inch passageway would be unproductive.

Using test methods similar to those utilized earlier for Configurations A, B, C, and D, CAMI conducted the additional series of tests during the week of August 12, 1991. The four configurations tested in this series were:

E—for comparative purposes, the same as Configuration C of the earlier series, i.e., a configuration that had a minimum of 20 inches of unobstructed passageway to the exit, with the leading edge of the seat bottom cushion of the row of seats aft of the exit protruding 5 inches forward of the projected aft vertical edge of the exit opening (see Figure 2);

F—configuration similar to Configuration E, except that the leading edge of the seat bottom cushion of the row of seats aft of the exit protruded 10 inches forward of the projected aft vertical edge of the exit opening (i.e., at the projected centerline of the exit), the seatbacks of the row of seats ahead of the exit were fixed in a broken-forward position 15 degrees forward of vertical, and the row of seats ahead of the exit was moved aft to reduce the unobstructed passageway to 10 inches (see Figure 4);

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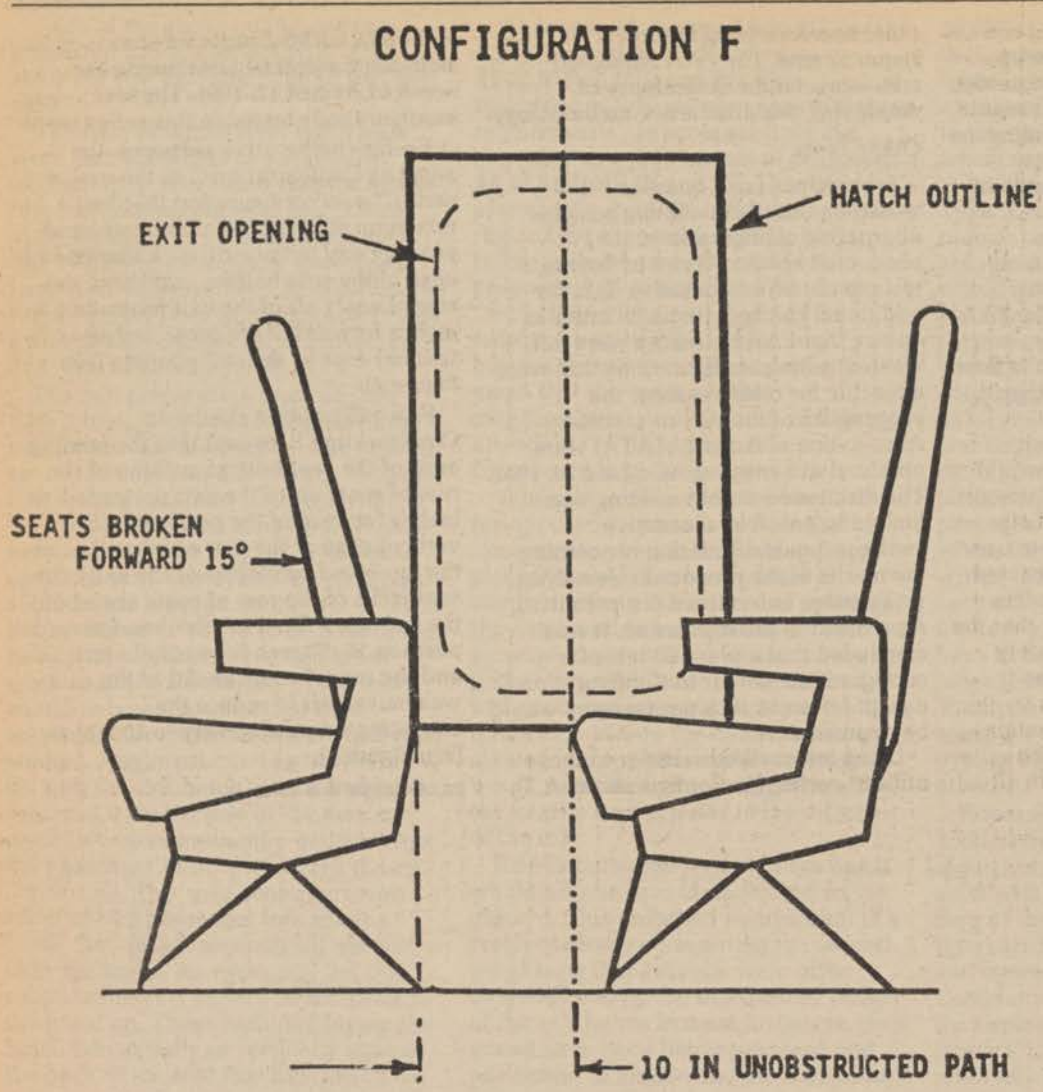

Figure 4

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G—a configuration similar to Configuration B of the earlier tests (i.e., a minimum of 10 inches of unobstructed passageway to the exit with the leading edge of the seat bottom cushion of the row of seats aft of the exit located on the centerline of the exit), except that the seat rows on the exit side of the aisle contained only two seats each (see Figure 1); and

H—a variation of Configuration D of the earlier tests (i.e., a seat row centered on one exit with the outboard seat deleted to provide two approximately 6 inch unobstructed passageways) in which there were two adjacent exits with their vertical centerlines spaced 29 inches apart and two outboard seats removed to provide three approximately 6 inch unobstructed passageways (see Figure 5).

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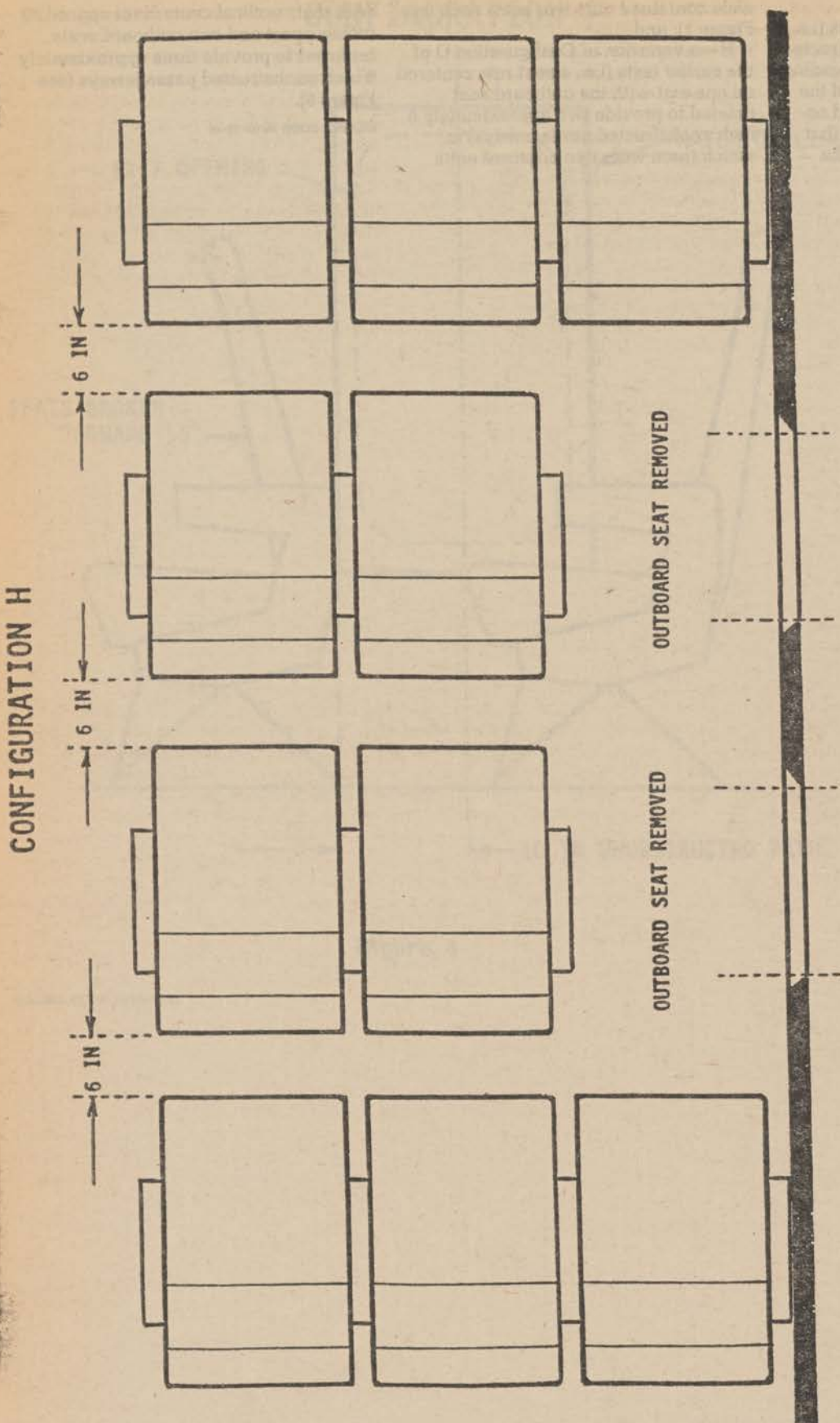

Figure 5

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The details and results of this second test series are contained in CAMI draft report, Effects of Seating Configuration and Number of Type III Exits on Emergency Aircraft Evaluation. (The above test configurations are identified in a preliminary draft of this memorandum as Configurations A through D, respectively; however, they have been reidentified as Configurations E through H, respectively, in order to preclude confusion with Configurations A through D of the first test series.)

As noted earlier, Configuration C (or Configuration E of the second series) provided the most efficient egress of the configurations tested with three-seat rows. The test results show that the efficiency of configuration G, with a 10-inch passageway and only two seats per row on the exit side of the aisle, was only about ½ per cent less than those with Configuration C. From a test standpoint, ½ per cent is insignificant. Configuration G may therefore be considered equivalent to Configuration C. Configuration F, with a 10-inch passageway and the seatbacks broken forward, provided the least efficient egress of the configurations tested in this second test series—approximately 7 per cent more time per passenger.

Since the issuance of Notice 91–11, it has been brought to the attention of the FAA that configurations involving two adjacent exits on each side of the fuselage present particular problems. Some airplanes, including Douglas DC–9/MD–80 series, Boeing 737–400, certain Boeing 757 series, certain Fokker F–28 series and Airbus A–320 series have adjacent exits with exit centerlines separated by as little as 29 inches. In those airplanes, the exits are located so close together that the row between the two exits cannot be moved in either direction without blocking one of the exits (see Figure 6).

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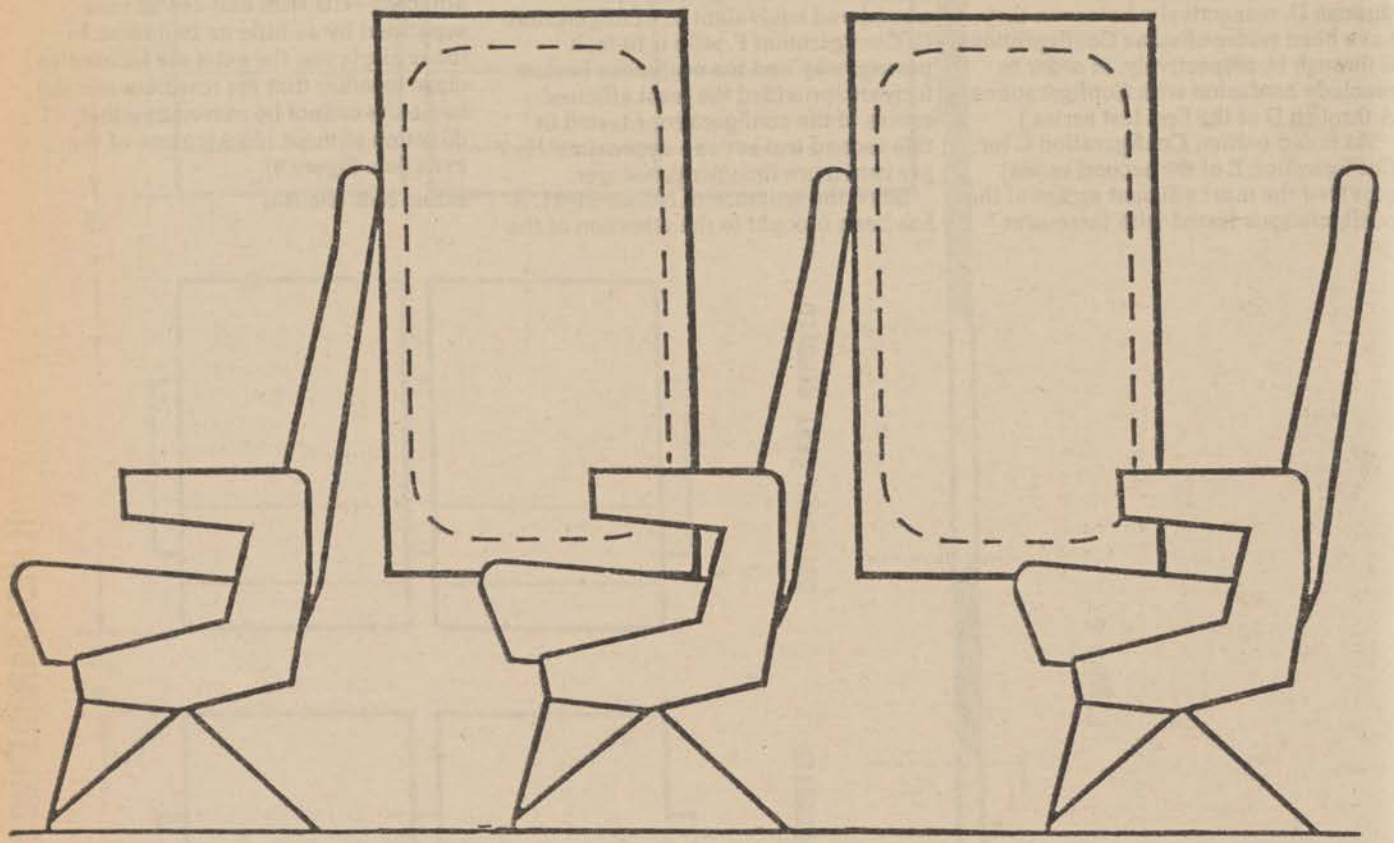
TYPICAL PRESENT DAY CONFIGURATION
with
ADJACENT EXITS



DOUGLAS DC-9/MD-80 SERIES
BOEING 737-400
BOEING 757 (one of three configurations in service)
BOEING 767
FOKKER F-28-4000/F-100
AIRBUS A320

Figure 6

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Configuration C, with a 20-inch passageway, is not an available option because moving the row between the two exits aft to obtain the 20-inch passageway at the forward exit would block the other exit (see Figure 7).

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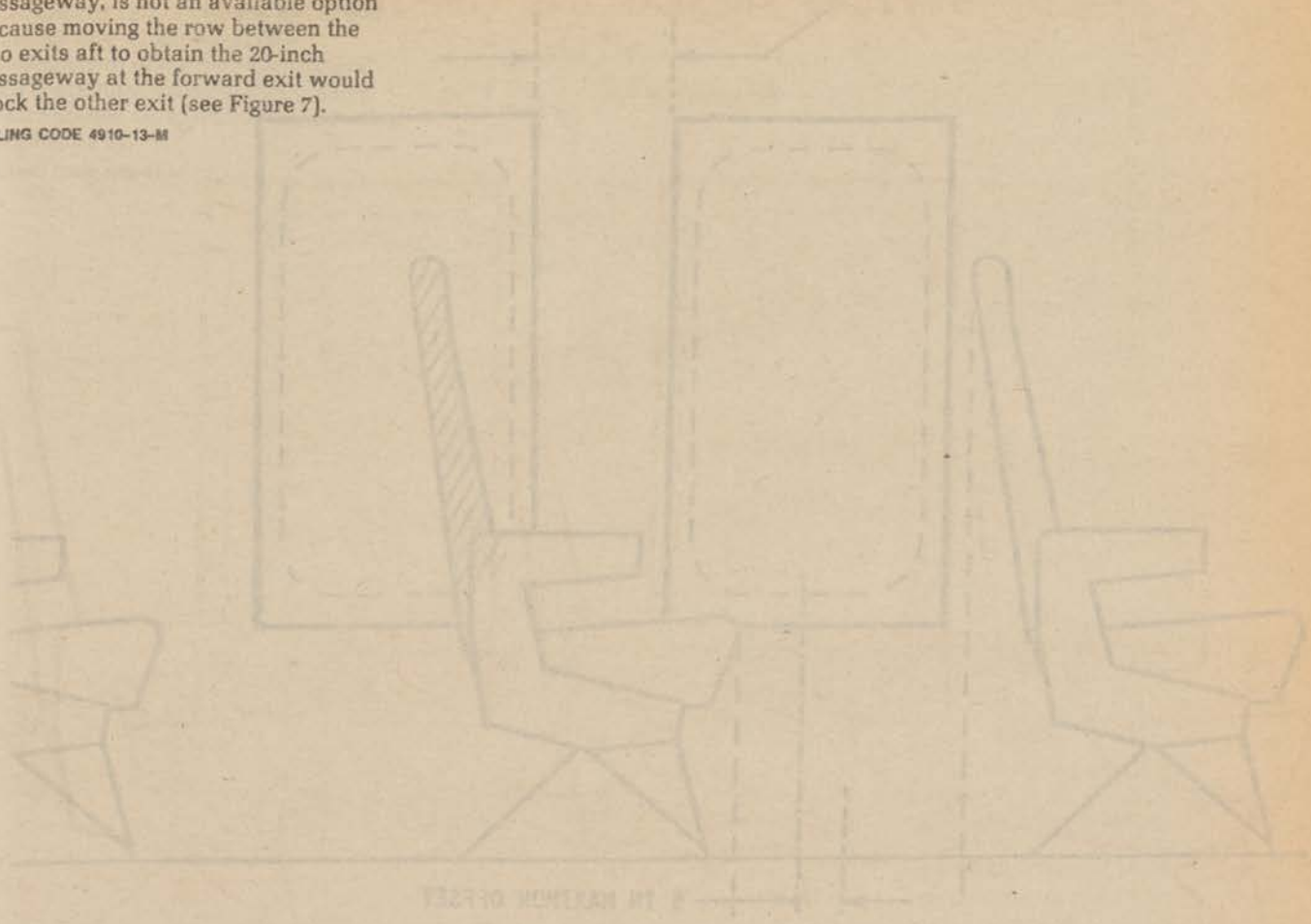

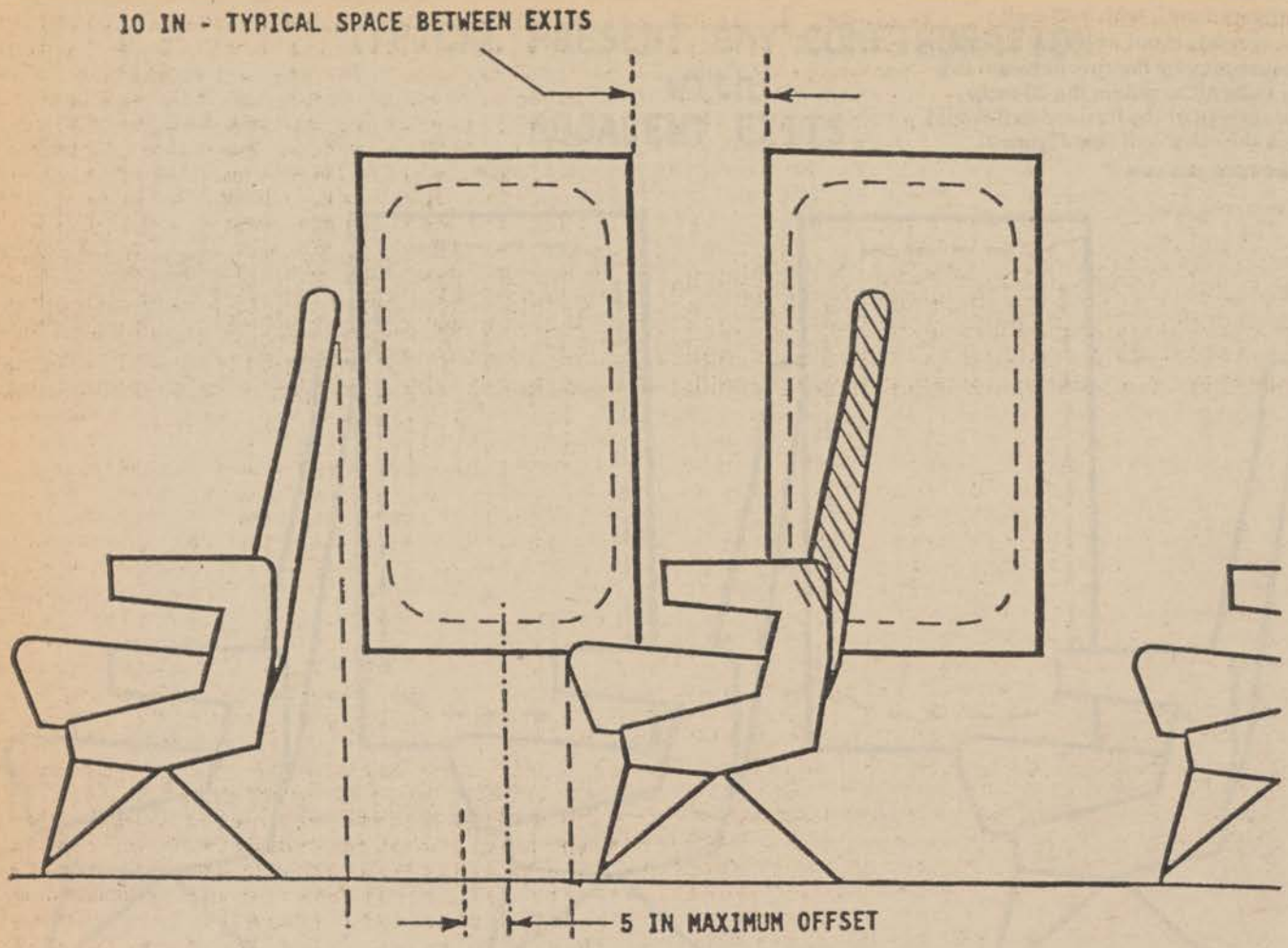

WHY CONFIGURATION C CAN'T BE USED
with
ADJACENT EXITS

Figure 7

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Similarly, advancing the row ahead of the forward exit to provide the 20-inch passageway would result in a misalignment of the passageway and exit centerlines considerably greater than 5 inches, as specified in the Notice (see Figure 8).

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POSSIBLE CONFIGURATION WITH ADJACENT EXITS

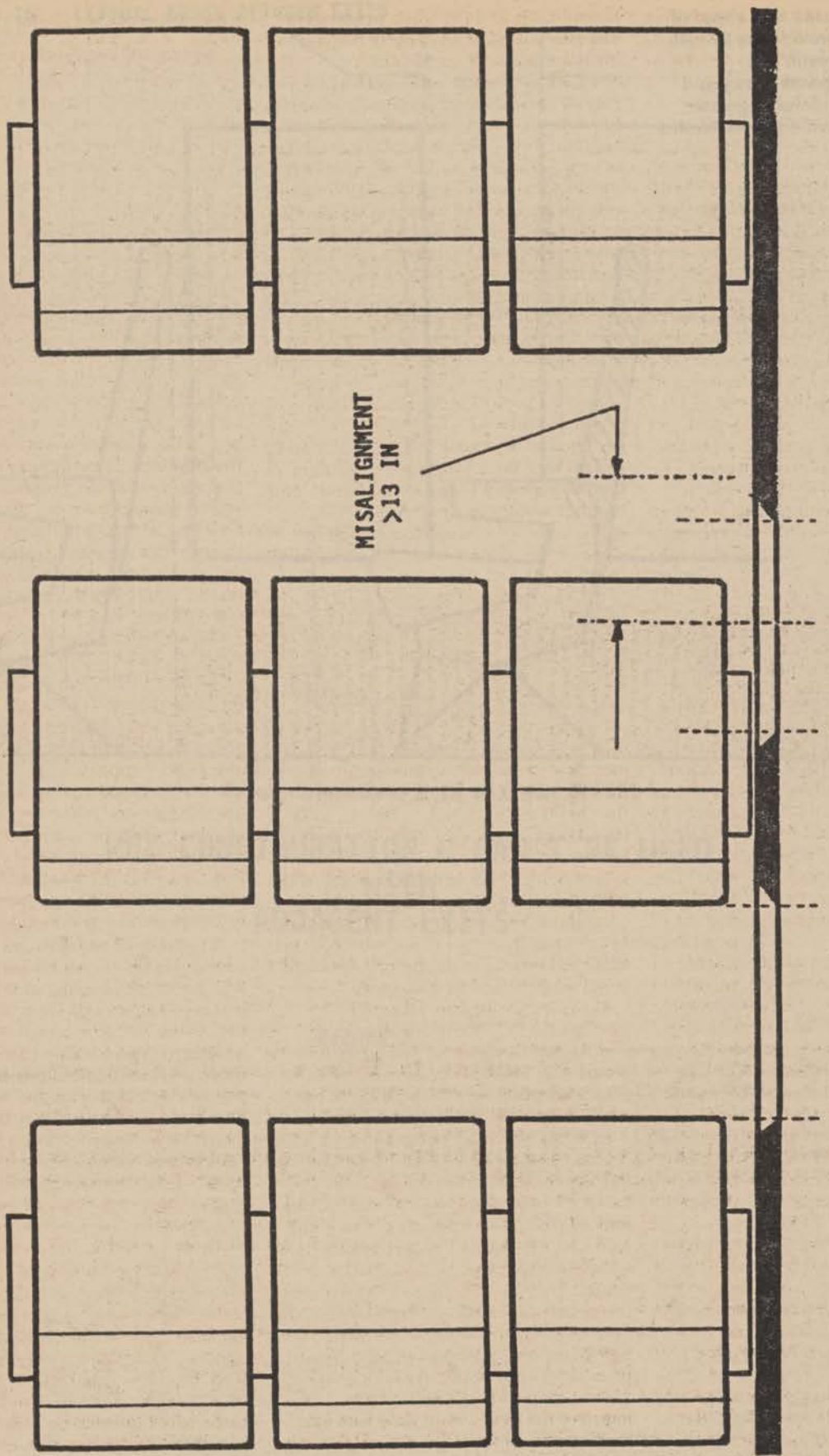

Figure 8

BILLING CODE 4910-13-C

There was also concern that a variation of Configuration D with the outboard seat removed at each exit to provide three approximately 6-inch passageways would not provide the desired improvement. That variation was therefore included in the second test series as Configuration H (Figure 5).

Egress was considerably slower with Configuration H than with the baseline Configuration C (Configuration E) or the previously-tested Configuration D. Egress time per person was approximately 9 percent greater from the aft exit of Configuration H than that achieved with Configuration E. The time was even worse, approximately 19 percent greater, from the forward exit of Configuration H. This degradation of egress was due both to increased time required to remove the exit hatches and for passengers to flow through them. Unlike Configuration D, there was no test subject seated within arms length of the aft hatch. It was therefore necessary for subjects seated in the rows with the outboard seats removed to lean over or get out of their seats to remove the exit hatches. The average time for each test subject to egress was also increased by the reduction in passageway width (three such passageways were feeding two exits rather than two passageways feeding one exit as in Configuration D) and by test subject hesitancy at the exit hatch openings. The hesitancy seemed to be due to confusion as to "who should go next" when two lines of evacuees converged at one exit. In view of this test series, it does not appear that Configuration H provides any improvement in egress over Configuration A, the current minimum access required by § 25.813(c), whenever there are two adjacent exits in each side. As a result of these tests, it may be concluded that the only way to achieve the improvement in flow intended by Notice 91–11 when there are two adjacent exits is to separate the exits and adopt Configuration C or D at each exit.

A number of commenters referred to tests conducted earlier in the United Kingdom. In 1987, the Civil Aviation Authority of that country commissioned Cranfield Institute of Technology to conduct research concerning passenger behavior in aircraft emergencies. The primary objective of this research was to investigate the influence of changes in access to emergency exits on the passenger evacuation rates. The tests were conducted under two circumstances: (a) when passengers are competing to evacuate an aircraft, as could happen in an accident in which the cabin conditions become life-threatening, and (b) when passengers are evacuating in an orderly manner, as occurs in aircraft certification evacuations and in some accidents. The former circumstance (generally referred to as the "competitive tests") was simulated by offering a significant bonus in pay to the first half of the volunteer evacuees to leave the aircraft. No bonus was offered for the other tests. The test configurations included a range of widths for the passageway through a bulkhead leading to floor-level exits and a range of seating configurations adjacent to a Type III exit. The competitive tests involving access to floor-level exits are not pertinent to this rulemaking; however, those involving access to Type III exits are directly related. Those tests included a configuration similar to Configuration C, except that the unobstructed width of the passageway to the exit differed, and another similar to Configuration D.

From the tests involving access to Type III exits, the researches concluded that:

1. Changes in the unobstructed width of the passageway leading between the two seat rows influence the speed of the evacuation. When a configuration similar to Configuration C is used, the optimum unobstructed width of the passageway is between 13 inches and 25 inches. Although a specific width of 20 inches was not tested, the results of these tests are generally consistent with the CAMI tests using Configuration C (or Configuration E of the later test series).

2. When the unobstructed width of the passageway is further increased by completely removing one seat row, the evacuation flow rate is slower than that achieved when the unobstructed width is between 13 and 25 inches.

3. A configuration similar to Configuration D provides a rapid evacuation flow rate but is prone to blockages. In addition, opening and disposing of the exit was found to be more difficult with that configuration.

In these tests, the behavior that results from monetary incentive was used to represent the competitive behavior that would result from mortal fear in an actual emergency. Since this representation may not be completely accurate, the FAA is not prepared to accept the validity of the "competitive tests" in their entirety. Nevertheless, the above conclusions cannot be ignored. In particular, the competitive behavior tests show that providing additional space adjacent to an exit may not improve the evacuation flow rate and may, in some instances, actually prove to be counterproductive.

Discussion of Comments

Nearly 200 commenters responded to the invitation extended in Notice 91–11. These include responses from the general public, airplane manufacturers and associations representing them, airlines and associations representing them, the City of Los Angeles, foreign airworthiness authorities and associations representing airline employees.

The vast majority of the commenters are members of the general public. Fifty such commenters support the proposed rulemaking without further comment. Forty-seven others support the proposed rulemaking, but offer additional comments or suggestions. None of the commenters from the general public present factual information to support their beliefs. Some appear to believe that the cost of the proposed rulemaking would simply come out of airline profits; however, a significant number support the rulemaking even though they recognize that they, the consumers, would ultimately bear the cost of compliance.

Some persons make no specific comment concerning the proposed rulemaking, but simply complain that the interiors of commercial airliners are too crowded. One expresses concern about stowage of heavy baggage in overhead compartments. Another alleges that food service and lavatories are unhygienic. These comments go well beyond the scope of the present rulemaking and cannot be considered at this time. To the extent that they have merit, the FAA will consider them for future proposed rulemaking.

A number of commenters make comments that are relevant, although well beyond the scope of the proposed rulemaking. Several focus on the capability of the passengers seated adjacent to the emergy exits. In general, those commenters believe that the persons sitting next to the exits must be able-bodied, in sound mental condition, fluent in the English language, and neither elderly, handicapped, nor traveling with small children. Some suggest that only persons certified as competent to operate the exits should be permitted to sit in those seats.

The FAA agrees that the persons seated adjacent to the emergency exits should be capable of opening them expeditiously. In that regard, the FAA adopted Amendment 121–214 (55 FR 8054, March 6, 1990) which requires that only persons who are determined by the certificate holder to be able, without assistance, to activate an emergency exit and to take the additional actions

needed to ensure safe use of that exit in an emergency may be seated in exit rows. In light of the action already taken, the need for and practicality of adopting these suggestions has not been clearly established.

Other commenters suggest that mockups of the emergency exit arrangement should be provided at the airport so that passengers could familiarize themselves with the exit operation before boarding. Providing for airport mockups goes well beyond the scope of Notice 91–11 and cannot be adopted at this time; however, it would be proposed in future rulemaking it if were determined to have sufficient merit.

Some commenters believe that the size or number of Type III exits should be increased. It has been demonstrated that the ability of persons to egress through certain larger floor-level exits could be enhanced by modestly increasing the size of those exits (i.e., not so much that they could qualify as the next larger type). The FAA has therefore proposed to define two additional types of floor-level exits (Notice 90–4, 55 FR 6344, February 22, 1990). Unlike those proposed enhanced floor-level exits, the FAA is not aware of any data showing that the ability of persons to egress through Type III exits could be enhanced significantly by increasing their size. Similarly, there is no evidence that the number of Type III exits specified by § 25.807 for various seating configurations is insufficient. In any event, those suggestions go beyond the scope of Notice 91–11 and cannot be considered at this time.

Two commenters, both foreign airworthiness authorities, recommend that the rulemaking should include improving the integrity of seatback tray table latches to preclude inadvertent deployment of the tables during evacuation. While this recommendation may have merit, it goes beyond the scope of Notice 91–11 and cannot be considered at this time. If it is determined that failure of tray table latches has impeded previous evacuations under emergency conditions, this recommendation will be considered for future rulemaking action.

The same commenters recommend that the bottom structure of the seats adjacent to the exit access should be designed to minimize the possibility of limb entrapment. This recommendation also goes beyond the scope of Notice 91–11 and must therefore be deferred for consideration in future rulemaking.

Those commenters and a number of others recommend that, for rows bordering the passageway to a Type III exit, the seatback should be designed so that motion is limited to ± 15 degrees when a force as great as 400 pounds is applied to the seatback. The purpose of limiting seatback motion would be to discourage evacuees from finding multiple alternate routes to the exit and cause blockage. Like the above two recommendations, this also goes beyond the scope of Notice 91–11 and cannot be considered at this time. If it is deemed to have sufficient merit, it will be considered for future rulemaking.

One commenter believes that proposed § 25.813(c)(1) is not clear to whether reclined seat backs can protrude into the 20-inch passageway leading to the Type III exit. The FAA concurs that there may be confusion in this regard; therefore, § 25.813(c)(1)(i) contains the following additional sentence, "The width of the passageway must be measured with adjacent seats adjusted to their most adverse position." A similar clarification has been added to § 25.813(c)(1)(ii). In order to minimize the loss of cabin space, operators will probably provide means to limit seat back recline adjacent to the passageway.

As proposed, § 25.813(c)(1)(i) would permit the centerline of the passageway to be displaced as much as 5 inches horizontally from that of the exit. Two commenters do not believe that any displacement of the centerlines should be permitted. The FAA does not concur. The tests have shown that a displacement of 5 inches does not adversely affect egress, and not permitting any displacement would impose an unnecessary design constraint. On the contrary, it is noted that a maximum displacement of 5 inches may be unduly restrictive when the width of the passageway is greater than the minimum of 20 inches. The centerline of the passageway could be offset more than 5 inches, without any degradation of the egress capability, provided the centerline of a 20-inch wide portion of the passageway is not displaced more than 5 inches from that of the exit. Section 25.813(c)(1)(i) is therefore adopted as proposed, except that it specifies that the centerline of the required 20 inch width must not be displaced more than 5 inches horizontally from that of the exit.

One commenter believes that the overhead stowage compartment should be removed from above Type III exits in order to provide more head room. This, too, is beyond the scope of Notice 91–11; however, it does not appear that it would serve any useful purpose. As noted above under **"Background,"** § 25.813 requires the underside of the stowage compartment to be no lower than the upper edge of the exit. Evacuees would have to lower their heads to clear the upper edge of the exit regardless of the presence of a stowage compartment.

A number of commenters, including foreign airworthiness authorities, support the proposal to require unobstructed 20-inch wide access passageways (Configuration C—Figure 2), but not the alternative of removing the outboard seat adjacent to the exit (Configuration D—Figure 3). In contrast, others support the proposal to require removal of the outboard seat, but not the alternative of providing an unobstructed 20-inch wide passageway. Commenters with these opposing points of view cite the same competitive behavior tests to support their positions.

The FAA has carefully reviewed the results of both the competitive behavior testing and the testing conducted by CAMI. Contrary to the views of one group of commenters, both the competitive behavior tests and the CAMI test clearly show that Configuration C (Figure 2) is a viable means to improve the egress of passengers through Type III exits. The opposing point of view presented by the other group is more difficult to assess.

Configuration D (Figure 3) offers the advantage of providing more room in which a passenger may maneuver to remove and dispose of the hatch. Furthermore, the egress rate provided by that configuration in the initial CAMI tests was very good. Additionally, Configuration D offers redundant paths to the exit. On the other hand, competitive behavior tests show that it may be prone to blockages under actual emergency conditions. The CAMI testing of Configuration H appears to confirm the possibility that blockages, or at least delays due to confusion as to "who goes next," may occur whenever there is room enough for more than one orderly file of evacuees leading to the exit. The FAA also concurs with commenters that the removed hatch might be left in the space created by removal of the outboard seat and seriously hinder the flow of evacuees. In consideration of the competitive test results and comments received, it appears that Configuration D may not be as beneficial as Configuration C. A number of operators do, in fact, already have airplanes in service with that configuration. The final rule will allow the option of using Configuration D.

A number of commenters do not concur that either alternative would be sufficient and believe that the entire exit seat row should be removed. Although this would intuitively appear to be an improvement, the competitive behavior

testing has shown that the results could actually be counterproductive if the entire row were removed.

Two commenters believe that only outward opening doors should be allowed. The FAA does not concur with those commenters. The exits of transport category airplanes are typically designed so that they can be opened only to the inside in order to preclude a catastrophic decompression of the cabin should there be a failure of the exit retention system. (Some exits that appear to be outward opening actually open inward, then rotate in order to pass through an opening that is smaller than the exit.) Since that potential hazard would far outweigh the possible benefits of outward opening exits, the FAA does not consider it appropriate to require the use of such exits. In a similar vein, another commenter believes that the Type III exit hatches should be lighter in weight. The FAA certainly concurs that the hatches should be as light as possible. Nevertheless, the structural strength needed to prevent a catastrophic failure of the hatch must be the primary consideration.

Some commenters believe that the required exit placarding should instruct the person opening the hatch to place it outside the airplane. The FAA concurs that this would generally be more desirable than leaving it inside the cabin. There may, however, be unique installations in which placing the hatch outside the airplane might interfere with passengers' escape from the airplane or damage escape means (e.g. inflatable slides, etc.). It is therefore not considered appropriate to adopt specific requirements to dispose of the hatch outside the airplane.

One commenter believes that the phrase "stow the hatch" in proposed § 25.813(c)(3)(iii) implies that there must an approved pre-determined location for disposing of the exit. The FAA concurs that "stow the hatch" may convey this implication; therefore, § 25.813(c)(3)(iii), as adopted, reads, "If the exit is a removable hatch, state the weight of the hatch and indicate an appropriate location to place the hatch after removal."

One commenter, an organization representing airline employees, does not concur that airplanes with seating for 19 or fewer passengers should be excepted from the access requirements as proposed. In contrast, a number of other commenters take the opposite position. Those commenters note that operators of smaller airplanes would be adversely affected by the the proposed new standards more than those of the larger airplanes. One estimates that the loss of seats would only be approximately 0 to 2.5 percent for large wide-body airplanes while that for smaller airplanes would be as much as 10 percent. The commenters believe that, in airplanes with passenger capacities of 50–60 or fewer, the distribution and dimension of the cabin has already been optimized during initial design to ensure easy and quick evacuation. The commenters note that the passenger-exit ratio is always much less in such airplanes and that, due to the shorter cabin length, all passengers are close to an exit. The commenters also note that the typical seat pitch of such airplanes is 29–31 inches and that it is impossible to reduce the seat pitch without causing a higher risk of injury and decreasing the comfort of passengers to unacceptable levels. The commenters therefore conclude that there is no way to gain the additional access space other than by removing seats. Because it would be extremely costly and there are few potential benefits, the commenters recommend that airplanes with more than 19 passengers should not be required to comply. Some suggest that airplanes with as many as 108 passengers should be excluded.

The FAA concurs that there has not been a demonstrated need to provide additional access to the Type III exits used in the smaller transport category airplanes. This, no doubt, is due in large part to the much more favorable passenger-exit ratio required for those airplanes. Section 25.807 presently contains two exit requirement tables. The first table specifies the type and number of exits required on each side of the cabin for specific seating capacities up to 179. For airplanes with seating capacities greater than 179, additional exits must be provided as specified in the second table. The number of additional passengers that may be carried for each additional exit of a specific type is generally referred to as the "passenger rating" of that type of exit. Type III exits have a passenger rating of 35; the larger, floor-level Type I and II exits have passenger ratings of 45 and 40, respectively. The first table of § 25.807 specifies that airplanes with 20 to 39 passenger seats must have one Type II and one Type III exit in each side of the airplane. If these same Type II and Type III exits were added to a 179 passenger airplane, the total passenger capacity of that airplane could be increased by 75 passengers to a total of 254. This means that airplanes with seats for 20 to 39 passengers are permitted by § 25.807 to utilize only 27 to 52 percent of the passenger ratings of their Type II and Type III exits. Similarly, the first table of § 25.807 specifies that airplanes with 40 to 79 passenger seats must have one Type I and one Type III exit in each side of the airplane. If these same Type I and Type III exits were added to a 179 passenger airplane, the total passenger capacity of that airplane could be increased by 80 passengers to 259. Airplanes with seats for 40 to 79 passengers are therefore permitted to utilize 50 to 98 percent of the passenger ratings of their Type I and Type III exits.

Although the FAA does not consider that it would be appropriate to exclude airplanes with as many as 108 passengers, it is recognized that compliance with either alternative configuration would place an undue burden on operators of airplanes with smaller passenger capacities. In lieu of 20 or more passengers, as proposed in Notice 91–11, the new standards for access to Type III exits are adopted only for airplanes with seats for 60 or more passengers. Sixty passenger seats is considered an appropriate dividing point because such airplanes typically have at least 15 seat rows that can be adjusted slightly to provide the additional access to the Type III exits without a loss of revenue. It must be noted that all airplanes with Type III exits, including those with fewer than 60 passenger seats, must comply with the requirements for exit placarding, as proposed in the Notice.

Because Part 135 does not apply to operation of airplanes with 60 or more passenger seats, it is no longer necessary to amend Part 135 to require compliance with the proposed requirements for access to Type III exits. Part 135 is amended, however, to specify the requirements for placarding as proposed. Part 135 is also amended to include the provisions of § 121.310 explicitly, as proposed, rather than by reference.

The FAA noted in the preamble to Notice 91–11 that it would also consider alternative means of increasing the flow rate through Type III exits. Some commenters interpreted this to mean that there would literally have to be a 14 percent improvement in the egress rate at each exit. As discussed above, the smaller airplanes generally have a more favorable passenger-exit ratio. The commenters therefore questioned the fairness of requiring smaller airplanes that are already superior in evacuation capability to be improved by the same percentage as the larger airplanes. Since airplanes with fewer than 60 passengers will not be required to comply, the commenters' concerns in this regard are no longer relevant. It does, however, appear that clarification of this point is

needed. The statement that alternative means of increasing the flow rate would be considered was not intended to mean that there would literally have to be an improvement of 14 percent for each Type III exit. The statement was merely a reflection of the provisions for findings of equivalent safety that are already contained in § 21.21(b)(1) of the FAR. That section states, in part, that the applicant is entitled to a type certificate if the product (in this case a transport category airplane) complies with the applicable requirements of the FAR, ". . . or that any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety. . . ." A finding of equivalent safety under the provisions of § 21.21(b)(1) could, of course, be based on a finding that the flow of evacuees through a specific Type III exit was equivalent to that provided by a Configuration C or D seating arrangement. On the other hand, it could be based on the overall evacuation capability of the entire airplane. Findings of equivalent safety have, for example, been granted for airplanes with additional or larger floor level exits in lieu of the Type III exits specified by § 25.807. The burden is, of course, on the applicant to show that there is in fact, an equivalent level of safety.

One commenter believes that placing a seat under or close to a Type III exit can actually enhance evacuation since it affords the passenger an intermediate step up to the lip of the exit. As noted by the commenter, that might enable children and, possibly, some handicapped persons to pass through the exit quicker; but it would delay the passage of most persons through the exit. It would undoubtedly cause a significant delay in the overall evacuation process to the detriment of all occupants.

A number of commenters focus on the applicability of the tests conducted at CAMI in support of Notice 91–11. Several allege that the actual unobstructed width of the passageway tested as Configuration C was actually much less than 20 inches. Some claimed that it was as little as 15 inches. These commenters were apparently misled by an inaccuracy in a figure in the test report depicting the test arrangement. In response to those comments, the FAA attempted to confirm the width of the passageway independently of the report through test photos, recollections of test personnel, etc. The width used in some test runs could not be verified precisely at this late date; however, it was specifically measured by a test observer and found to be 20 inches for at least one of the four runs. Because the tests were conducted over a period of time, there is a possibility that there may have been some minor variation in passageway width. Nevertheless, it has been determined that the passageway did not differ sufficiently from 20 inches in any run to invalidate the test results.

One commenter questions the validity of the testing of Configuration C because the commenter alleges that the competitive behavior tests showed 13 inches to be an effective passageway width. As noted above the researchers concluded that the optimum passageway width is between 13 inches and 25 inches, not 13 inches as stated by the commenter. As also noted above, a specific width of 20 inches was not evaluated during the competitive behavior tests.

A number of commenters note that the CAMI tests considered only interior configurations with three-seat rows on the exit side of the cabin aisle. As discussed above under **"Other Tests,"** a subsequent series of tests did include Configuration G (Figure 1), a configuration similar to Configuration C, except that rows of double seats were used and the unobstructed width of the pathway was only 10 inches. Those tests showed that Configuration G is equivalent to Configuration C in egress capability; therefore, § 25.813(c)(1)(i), as adopted, requires the unobstructed width of the pathway to be at least 10 inches when the adjacent rows on the exit side of the aisle contain no more than two seats.

Commenters also note that the tests did not consider configurations with two adjacent Type III exits on each side of the cabin. As also discussed above under **"Other Tests,"** neither Configuration C nor Configuration D is an available option when the exits are so closely located. Configuration H (Figure 5), a variation of Configuration D, was therefore tested subsequently as a possible alternative. Unlike Configuration G, Configuration H proved to be no better than the minimum access currently required by § 25.813(c). As concluded above under **"Other Tests"**, the only way to achieve the improvement in flow intended by Notice 91–11 would be to locate the exits far enough apart that Configuration C or D could be used. Designing new airplanes with sufficient space between exits does not present insurmountable difficulties as evidenced by existing Boeing 707 and 727 series airplanes and certain Douglas DC–8 series airplanes. Section 25.813(c) is therefore adopted as proposed in this regard.

Moving the exits of existing airplanes to provide sufficient spacing would, on the other hand, be impractical due to cost and other dificulties. In addition, there are other circumstances that would also make compliance with proposed § 121.310(f)(3)(iii) impractical. These include the presence of fixed installations such as lavatories, galleys, etc., or permanently mounted bulkheads if those installations would preclude compliance without a loss in the total number of seats. An insufficient number of seat rows ahead of or behind the exit could also make compliance impractical. Other considerations, such as passenger comfort, have previously ensured sufficient seat row pitch to enable passengers to reach the main aisle quickly in an emergency situation. A severe reduction in seat row pitch could, however, compromise passengers' ability to reach the main aisle quickly in an emergency. Floor loading limitations would also preclude severe reductions in pitch in some airplanes. Compliance would therefore be considered impractical if the seat row pitch would have to be reduced by more than one inch from its present value or to less than 30 inches. As discussed above, the alternative of removing complete seat rows at the exits may prove counterproductive because of the competitive behavior that occurs during evacuation. That alternative would be considered impractical as well.

As noted above, the CAMI competitive behavior tests cast some doubt on the viability of Configuration D. Based on the information presently available, the FAA does not consider compliance practical if Configuration C could not be used for a specific cabin arrangement, and the only possible alternative would be to use Configuration D.

In view of these considerations, § 121.310(f)(3)(iv) is adopted to provide relief when it is determined that such special circumstances exist. The operator must, of course, bear the burden of providing credible reasons as to why compliance is impractical and a description of the steps taken to achieve a level of safety as close to that intended by the new standards as possible. No relief will be granted unless the operator has shown that all practical steps *have* been taken.

A number of commenters observe that the tests did not consider configurations typically found in smaller transport category airplanes, such as seating with only one or two seats on the exit side of the aisle, non-overwing Type III exits that are permitted to be as much as 6 feet above the ground, Type III exits

located at the end of the cabin, etc. As noted above, the FAA did conduct a subsequent test program including a configuration with rows of double seats. The other comments are no longer relevant since, as also noted above, the final rule does not require airplanes with fewer than 60 passenger seats to comply with the access space requirements.

Several commenters attempt to relate the test program to the emergency evacuation demonstrations required in compliance with §§ 25.803 or 121.291. Commenters have also tried to make similar comparisons with real emergency situations. It must be emphasized that these tests were conducted on a comparative basis to evaluate the relative merits of specific design features. Differences from the tests required by § 25.803 or § 121.291, such as cabin lighting, the lack of debris scattered about, age/sex of test subjects, etc. are therefore not relevant. Similarly, differences from real emergency situations are not relevant.

One commenter questions whether the seating of the test subjects was "statistically random." The test subjects were instructed to sit anywhere they wanted. The only constraint placed on them in that regard was that they were instructed to not sit in the same seat a second time. The seating was therefore entirely "random" by accepted mathematical procedures.

Several commenters focus on the results of the first test run for each configuration and allege that the familiarity gained by test subjects in succeeding test runs invalidates the data from those runs. As noted in the preamble to Notice 91–11, the tests were conducted using the principles of Latin Square testing. While it is true that test subjects do gain a degree of familiarity with succeeding test runs, the effects of that familiarity are compensated for by alternating the sequence in which the configurations are tested by different groups. The tests would merely reflect the capabilities of the test subjects if the principles of Latin Square testing were not used or an extremely large number of tests were not conducted. The results of the first test runs alone are therefore not meaningful.

One commenter believes that two few tests were conducted on which to base proposed rulemaking. The FAA concurs that additional testing would improve the accuracy of the test results; however, there is a practical limit to the number of tests that can be conducted considering financial resources, time and the availability of test subjects. In view of the safety benefit that may be realized, the FAA does not consider it prudent to delay the final rule to obtain a larger test data base.

One commenter questions the applicability of the tests because they were conducted with a 17-inch main cabin aisle, while § 25.815 requires, for an airplane with 20 or more passenger seats, the aisle to be at least 15 inches wide from floor level to a point 25 inches above the floor and 20 inches wide above that point. The commenter does correctly quote the requirements of § 25.815; however, the comment is not relevant because there was never a time during any of the tests in which the main aisle wasn't feeding test subjects faster than the exit passageway could accommodate them. One commenter notes that the seats on the opposite side of the main aisle were unoccupied while another further notes that the simulator did not include an exit on the opposite side of the cabin. Others note that the tests did not simulate airplanes with the Type III exits located at the end of the cabin. One commenter believes the test results are not valid because the tests were not conducted with the maximum number of passengers in the cabin simulator. Like the comment concerning aisle width, these observations are not relevant because the main aisle always fed test subjects faster than the exit passageway could accommodate them.

One commenter questions the validity of the tests because they did not consider the height of the space in which the evacuee could stand next to the exit. The FAA does not consider the standing height to be relevant to the test results. Having more height would increase the available workspace and possibly improve egress; having less, on the other hand, would certainly not be a viable reason for decreasing the workspace adjacent to the exit.

The same commenter notes that the testing did not consider passageways leading to the exit through face-to-face seating arrangements. The practical effect of an arrangement of this nature would be that the ratio of passsageway width at upper level to that at floor level would be greater than that of conventional seating arrangements. The FAA is not aware of any airplane currently in service in the U.S. with 60 or more passengers and a configuration of this nature; and, considering that Type III exits are invariably located in the coach-class section where cabin space is used in the most productive manner, it is highly unlikely that an operator would propose such a configuration in the future. In the unlikely event an arrangement of this nature is proposed, the standards proposed in Notice 91–11 are considered equally applicable to arrangements with face-to-face seating.

One commenter notes that tests fail to show any significant differences in the configurations tested with respect to the mean time to prepare the exit for use. The commenter therefore concludes that the configurations proposed in Notice 91–11 would not contribute significantly to that phase of the evacuation. It appears that the commenter's conclusion is inaccurate since exit preparation would certainly be adversely affected by inadequate workspace. In any event, it is not relevant because there will be a significant improvement in the rate of egress after the exit is prepared.

The same commenter also notes that the step-up to and the step-down from the Type III exit in the test facility were 18 inches and 22.5 inches, respectively, while § 25.807(a)(3) permits a step-up of as much as 20 inches and a step-down of as much as 27 inches if the exit is located over a wing. The commenter alleges that the egress rate might have been less sensitive to the passageway leading to the exit if a greater step-down distance had been used. The FAA does not concur. Greater step-up and step-down distances would have made the need for adequate workspace adjacent to the exit even more acute.

One commenter asserts that the weight of the hatch used in the CAMI tests is not representative of those in all aircraft. (Actually, the hatch used was originally installed in a Boeing Model 720.) As noted above, the FAA concurs that hatches should be as light as possible because lighter hatches can generally be removed in less time than those that are heavier. Hatch weight is not relevant to the CAMI test results, however, because it has no bearing on the rate of egress once the hatch is removed.

One commenter believes that the instructions "lift window into cabin" may have influenced the results of the CAMI tests of the various adjacent seating configurations. It appears that the commenter is confusing these tests with the other test series devoted specifically to hatch placement since no instructions of this nature were given during the former tests.

Another commenter believes that the test results should consider only the time required for the first 15 or 30 test subjects to egress rather than the full number that participated. The FAA does not concur. Limiting the number of test subjects would tend to skew the test results in favor of the configurations in which the fastest test subjects were seated closest to the exit. It appears that

the commenter is attempting to relate the tests to the 90-second evacuation demonstration time required by § 25.803. As noted above, the tests conducted by CAMI were to evaluate specific design features on a comparative basis and are not relevant to the demonstration required by § 25.803.

One commenter, an association representing U.S. aircraft manufacturers, believes that there is insufficient evidence to indicate that the increase in space required by the proposed regulation would produce the desired improvement in safety. The commenter prepared a detailed assessment of costs and benefits that is included in the docket for this rulemaking. For the most part, the assessment is no longer relevant due to the changes discussed above. To the extent they are still applicable, these and all other comments of an economic nature have been considered in the development of the regulatory evaluation of this final rule.

The same commenter further states that the proposed six-month implementation period is based on unrealistic and inaccurate assumptions about current seat pitches and the capability of the airlines to reconfigure current aircraft. Other commenters present similar views. According to the commenters, six months would not allow sufficient time for the required engineering, manufacturing, procurement, installation, and certification. The FAA recognizes that many factors must be considered in designing and implementing the required changes and that there may be unusual circumstances in which fleet-wide compliance cannot reasonably be achieved within six months. Although the FAA does not concur that a compliance period longer than six months is needed in general, § 121.310(f)(3)(v) has been adopted to provide relief when such unusual circumstances do exist. When supported by credible reasons showing that compliance cannot be achieved by the specified date, such relief will be granted in the form of a deviation allowing fleet compliance in incremental stages.

As discussed in the preamble to Notice 91–11, the FAA recognizes that many factors must be evaluated in designing transport category airplanes for safe evacuations. Cabin rulemaking must consider the interaction among cabin sizes, passenger capacity, the type and number of emergency exits, exit location, distance between exits, aisle design, exit row and escape path markings and lighting, flame resistance of cabin interior materials, and other important variables. In order to develop future proposed safety standards by using a systems-type analysis, the FAA chartered a committee of safety experts, known as the Aviation Rulemaking Advisory Committee (ARAC), on February 5, 1991. Under the auspices of the ARAC are several subcommittees which will deal with different areas of FAA rulemaking activity. One of the subcommittees is the Emergency Evacuation Subcommittee. The Emergency Evacuation Subcommittee, in turn, has established a Performance Standards Working Group, which reports to the subcommittee.

Members of the working group represent the interests of airplane manufacturers; airlines; an airplane equipment manufacturer; pilot, flight attendant, and machinists unions; an airline passenger association; the National Transportation Safety Board; and the airworthiness authorities of Europe, Canada, and the United States. The working group's charter is to recommend whether new or revised standards for emergency evacuation can and should be adopted as performance-based standards. Performance-based standards state regulatory requirements in terms of objective safety performance rather than specific design requirements. To date the working group has met six times (on a bi-monthly basis), but has not yet made any recommendations to the subcommittee for any new performance based standards or for any performance based standards to replace existing non-performance based design standards.

Performance-based standards are desirable from the standpoint that they offer the manufacturer maximum flexibility in designing equipment or systems to comply with the regulations. They can, however, be difficult to develop, particularly when involved with human performance, as is the case with emergency evacuation regulations. Therefore, in view of the potential increase in safety that can be realized by early adoption of this rule, the FAA does not consider that deferring action concerning access to Type III exits pending further study by ARAC, as expressed by some commenters, is warranted. Nevertheless, it may be anticipated that other new cabin safety standards will be developed by ARAC and proposed by the FAA in future rulemaking.

Except as noted above, parts 25, 121 and 135 are amended as proposed in Notice 91–11.

Regulatory Evaluation

This section summarizes the full regulatory evaluation prepared by the FAA that provides detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimates of the costs and benefits to the private sector, consumers, and Federal, State, and local governments.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or to modify existing regulations only if potential benefits to society outweigh potential costs for each regulatory change. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules, except those responding to emergency situations or other narrowly-defined exigencies. A "major" rule is one that is likely to have an annual impact on the economy of $100 million or more a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this rule is not major as defined in the Executive Order. Therefore, a full regulatory analysis that includes the identification and evaluation of cost-reducing alternatives to the rule has not been prepared. Instead, the Agency has prepared a more concise regulatory evaluation that analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (P.L. 96–354) and an international trade impact assessment. The complete regulatory evaluation, which contains more detailed economic information than this summary provides, is available in the docket.

Cost-Benefit Analysis

The primary objective of this rule is to enhance aviation safety. An examination of the cost and the benefits associated with the amendments to Parts 25, 121, and 135—Improved Access to Type III Exits—are presented below.

Costs

The rule will require operators of transport category airplanes with 60 or more passenger seats to improve the access to Type III exits. In addition, the rule will require placards to be displayed in all airplanes with Type III exits that descibe how to open the exit, how much it weighs, and where to stow it. The costs of the rule can be separated into those incurred under part 25, those

incurred under part 121, and those incurred under part 135.

The FAA has determined that manufacturers can design the interior arrangements of airplanes that will receive future type certifications so that there will be no less of seats as a result of these improved access requirements. Therefore, there are no costs attributable to improved access requirements under part 25. A placard that meets the requirements of the rule will cost approximately $180 to design and $100 per airplane to install. The FAA estimates that the cost of placards for new airplane types with Type III exits will be approximately $66,000 over the years 1993–2002, or $40,800 discounted.

The current fleet of airplanes with passenger seating capacities of 60 seats or more and Type III exits will have to meet the requirements for improved access under part 121. The FAA has determined that 2,579 airplanes will be affected. Because of the flexibility in the rule, the FAA has determined that all of these airplanes will meet the requirements of the rule through reconfiguration, rather than seat removal. The costs of reconfiguration, including design changes, approval, and labor and materials to effect the reconfiguration, will be $3.5 million, or $3.2 million discounted. Currently certificated airplanes with Type III exits and passenger configurations of 60 or more that have not yet been manufactured will also be required to meet the exit access requirements of Part 121. However, since configuration is included in the costs of production of these new airplanes, there are no additional costs incurred as a result of the exit access requirements.

Placards will also be rquired for currently-certificated airplanes with Type III exits with passenger seating configurations of 20 or more. The total cost to the current affected fleet of 3,004 airplanes will be $329,000, or $299,000 discounted. Over the years 1993–2002, the FAA estimates that 3,308 currently-certificated airplanes operating under Part 121 and equipped with Type III exits will be manufactured. The costs of placards for these airplanes will be $331,000, or $218,000 discounted.

Very few airplanes with 20 or more seats and Type III exits operate under Part 135. The FAA has determined that there are currently 41 such airplanes with a maximum of 7 different seating configurations. Further, the FAA estimates that 45 new affected airplanes will be manufactured during the period 1993–2002. The costs of design, approval, production, and installation of placards for these existing and new airplanes will total $5,600, or $4,500 discounted.

The total costs of compliance of the rule over the years 1993–2002 will be $4.3 million, or $3.8 million discounted to present value. More than 80 percent of this cost will be incurred to comply with the requirements for improved access. Once the current fleet is reconfigured, the only cost of compliance of the rule will be that for placards, no more than $280 per airplane.

Benefits

The rule is expected to reduce the time to evacuate an airplane's Type III exit in the event of an emergency. During the years 1982 to 1991, there have been three domestic accidents involving airplanes with Type III exits where passengers used those exits and where fire and/or smoke inhalation produced post-accident fatalities. Another accident occurred to a foreign-registered airplane with Type III exits operating in the United States. Seventy-two passengers and seven crewmembers died in these accidents.

In the most recent accident, which occurred February 1, 1991, 37 passengers escaped through a Type III exit on a Boeing 737. However, a deceased flight attendant and 10 deceased passengers were found lined up in the aisle within 8 feet of the exit. They died as a result of smoke and particulate inhalation. The NTSB reported that "they most likely collapsed while waiting to climb out the overwing exit." The tests conducted by CAMI showed that the access requirements in the rule could result in a 14 percent improvement in the flow rate. This improvement would have resulted in 5 additional passengers and/or crewmembers being able to evacuate the 737. Applying a statistical economic value of a life of $1.5 million to the estimated 5 lives that could have been saved with improved access to the Type III exit in this accident results in a value of $7.5 million in 1992 dollars. Assuming that one life is saved every two years over the period from 1993–2002, the value of $7.5 million, discounted to present value, is $4.4 million.

Comparison of Costs and Benefits

The costs of the rule will be $4.3 million over the years 1993–2002, or $3.8 million discounted to present value. Over the same period of time, the FAA estimates that approximately 5 lives can be saved due to improved access to Type III exits and the requirements for instructive placards at those exits, resulting in benefits of $7.5 million, or $4.4 million discounted. Thus, the FAA has determined that the proposed rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) requires Federal agencies to review rules that may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for rulemaking officials to apply when determining whether a proposed or existing rule has any significant economic impact on a substantial number of small entities.

The entities that would be affected by this rule are the owners of airplanes with Type III exits. These owners include air carriers, banks, leasing companies, and manufacturers of such airplanes. Based on the Regulatory Flexibility Criteria and Guidance, the size threshold for operators of airplanes for hire is nine airplanes owned, while the cost threshold varies from about $4,300 to $110,100 in 1991 dollars, depending on type of service and/or fleet seating capacity. A substantial number is one that is not less than 11 or which is more than one-third of affected small entities.

The FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities. Approximately 47 affected owners can be considered small entities. The costs of the rule to the carriers will not exceed the threshold limits given above. In addition, the number of small leasing companies that own affected airplanes is less than the 11 necessary for a substantial number of small entities affected by the rule. Therefore, the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The rule will have little impact on international trade. U.S. and foreign airplane manufacturers can easily configure airplanes cabins to suit customers, either foreign or domestic. Because the rule will not require the removal of seats, U.S. carriers will not be at a competitive disadvantage. Once the existing affected fleet is reconfigured, the only costs to new airplanes (either currently type-certificated or new types) will be those for placards at the exits.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance

with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons given earlier in the preamble, the FAA has determined that this is not a major rule as defined in Executive Order 12291. Because this final rule concerns a matter on which there is significant public interest, the FAA has determined that this action is significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The FAA has carefully considered the impact of the rule on small entities and has concluded that there will not be a significant impact, positive or negative, on a substantial number of small entities. A final regulatory evaluation of the rule, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 121

Air carriers, Air transportation, Aircraft, Airplanes, Aviation safety, Common carriers, Crashworthiness, Emergency evacuation, Transportation, Safety.

14 CFR Part 135

Air carriers, Air transportation, Aircraft, Airplanes, Aviation safety, Transportation, Safety.

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 49 U.S.C. 106(g); and 49 CFR 1.47(a).

2. By amending § 25.813 by revising paragraphs (a) and (c) to read as follows:

§ 25.813 Emergency exit access.

* * * * *

(a) There must be a passageway leading from the nearest main aisle to each Type I, Type II, or Type A emergency exit and between individual passenger areas. Each passageway leading to a Type A exit must be unobstructed and at least 36 inches wide. Passageways between individual passenger areas and those leading to Type I and Type II emergency exits must be unobstructed and at least 20 inches wide. Unless there are two or more main aisles, each Type A exit must be located so that there is passenger flow along the main aisle to that exit from both the forward and aft directions. If two more more main aisles are provided, there must be unobstructed cross-aisles at least 20 inches wide between main aisles. There must be—

(1) A cross-aisle which leads directly to each passageway between the nearest main aisle and a Type A exit; and

(2) A cross-aisle which leads to the immediate vicinity of each passageway between the nearest main aisle and a Type 1, Type II, or Type III exit; except that when two Type III exits are located within three passenger rows of each other, a single cross-aisle may be used if it leads to the vicinity between the passageways from the nearest main aisle to each exit.

* * * * *

(c) The following must be provided for each Type III or Type IV exit—(1) There must be access from the nearest to each exit. In addition, for each Type III exit in an airplane that has a passenger seating configuration of 60 or more—

(i) Except as provided in paragraph (c)(1)(ii), the access must be provided by an unobstructed passageway that is at least 10 inches in width for interior arrangements in which the adjacent seat rows on the exit side of the aisle contain no more than two seats, or 20 inches in width for interior arrangements in which those rows contain three seats. The width of the passageway must be measured with adjacent seats adjusted to their most adverse position. The centerline of the required passageway width must not be displaced more than 5 inches horizontally from that of the exit.

(ii) In lieu of one 10- or 20-inch passageway, there may be two passageways, between seat rows only, that must be at least 6 inches in width and lead to an unobstructed space adjacent to each exit. (Adjacent exits must not share a common passageway.) The width of the passageways must be measured with adjacent seats adjusted to their most adverse position. The unobstructed space adjacent to the exit must extend vertically from the floor to the ceiling (or bottom of sidewall stowage bins), inboard from the exit for a distance not less than the width of the narrowest passenger seat installed on the airplane, and from the forward edge of the forward passageway to the aft edge of the aft passageway. The exit opening must be totally within the fore and aft bounds of the unobstructed space.

(2) In addition to the access—

(i) For airplanes that have a passenger seating configuration of 20 or more, the projected opening of the exit provided must be obstructed and there must be no interference in opening the exit by seats, berths, or other protrusions (including any seatback in the most adverse position) for a distance from that exit not less than the width of the narrowest passenger seat installed on the airplane.

(ii) For airplanes that have a passenger seating configuration of 19 or fewer, there may be minor obstructions in this region, if there are compensating factors to maintain the effectiveness of the exit.

(3) For each Type III exit, regardless of the passenger capacity of the airplane in which it is installed, there must be placards that—

(i) Are readable by all persons seated adjacent to and facing a passageway to the exit;

(ii) Accurately state or illustrate the proper method of opening the exit, including the use of handholds; and

(iii) If the exit is a removable hatch, state the weight of the hatch and indicate an appropriate location to place the hatch after removal.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

4. By amending § 121.310 by revising paragraph (f)(3)(ii) and adding paragraphs (f)(3)(iii), (iv), and (v) to read as follows:

§ 121.310 Additional emergency equipment.

* * * * *

(f) * * *

(3) * * *

(i) * * *

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the access

must meet the emergency exit access requirements under which the airplane was type certified; except that,

(iii) After December 3, 1992, the access for an airplane type certificated after January 1, 1958, must meet the requirements of § 25.813(c) of this chapter, effective June 3, 1992.

(iv) Contrary provisions of this section notwithstanding, the Manager of the Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, may authorize deviation from the requirements of paragraph (f)(3)(iii) of this section if it is determined that special circumstances make copmliance impractical. Such special circumstances include, but are not limited to, the following conditions when they preclude achieving compliance with § 25.813(c)(1)(i) or (ii) without a reduction in the total number of passenger seats: emergency exits located in close proximity to each other; fixed installations such as lavatories, galleys, etc.; permanently mounted bulkheads; an insufficient number of rows ahead of or behind the exit to enable compliance without a reduction in the seat row pitch of more than one inch; or an insufficient number of such rows to enable compliance without a reduction in the seat row pitch to less than 30 inches. A request for such grant of deviation must include credible reasons as to why literal compliance with § 25.813(c)(1)(i) or (ii) is impractical and a description of the steps taken to achieve a level of safety as close to that intended by § 25.813(c)(1)(i) or (ii) as is practical.

(v) The Manager of the Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, may also authorize a compliance date later than December 3, 1992, if it is determined that special circumstances make compliance by that date impractical. A request for such grant of deviation must outline the airplanes for which compliance will be achieved by December 3, 1992, and include a proposed schedule for incremental compliance of the remaining airplanes in the operator's fleet. In addition, the request must include credible reasons why compliance cannot be achieved earlier.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

5. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1431, and 1502; 49 U.S.C. 160(g); and 49 CFR 1.47(a).

§ 135.177 [Amended]

6. By amending § 135.177 by removing and reserving paragraph (a)(4).

7. By adding a new § 135.178 to read as follows:

§ 135.178 Additional emergency equipment.

No person may operate an airplane having a passenger seating configuration of more than 19 seats, unless it has the additional emergency equipment specified in paragraphs (a) through (l) of this section.

(a) *Means for emergency evacuation.* Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more than 6 feet from the ground, with the airplane on the ground and the landing gear extended, must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor-level emergency exit must meet the requirements of § 25.809(f)(1) of this chapter in effect on April 30, 1972, except that, for any airplane for which the application for the type certificate was filed after that date, it must meet the requirements under which the airplane was type certificated. An assisting means that deploys automatically must be armed during taxiing, takeoffs, and landings; however, the Administrator may grant a deviation from the requirement of automatic deployment if he finds that the design of the exit makes compliance impractical, if the assisting means automatically erects upon deployment and, with respect to required emergency exits, if an emergency evacuation demonstration is conducted in accordance with § 121.291(a) of this chapter. This paragraph does not apply to the rear window emergency exit of Douglas DC–3 airplanes operated with fewer than 36 occupants, including crewmembers, and fewer than five exits authorized for passenger use.

(b) *Interior emergency exit marking.* The following must be complied with for each passenger-carrying airplane:

(1) Each passenger emergency exit, its means of access, and its means of opening must be conspicuously marked. The identity and location of each passenger emergency exit must be recognizable from a distance equal to the width of the cabin. The location of each passenger emergency exit must be indicated by a sign visible to occupants approaching along the main passenger aisle. There must be a location sign—

(i) Above the aisle near each over-the-wing passenger emergency exit, or at another ceiling location if it is more practical because of low headroom;

(ii) Next to each floor level passenger emergency exit, except that one sign may serve two such exits if they both can be seen readily from that sign; and

(iii) On each bulkhead or divider that prevents fore and aft vision along the passenger cabin, to indicate emergency exits beyond and obscured by it, except that if this is not possible, the sign may be placed at another appropriate location.

(2) Each passenger emergency exit marking and each locating sign must meet the following:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the requirements of § 25.812(b) of this chapter in effect on April 30, 1972. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts. The colors may be reversed if it increases the emergency illumination of the passenger compartment. However, the Administrator may authorize deviation from the 2-inch background requirements if he finds that special circumstances exist that make compliance impractical and that the proposed deviation provides an equivalent level of safety.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the interior emergency exit marking requirements under which the airplane was type certificated. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 250 microlamberts.

(c) *Lighting for interior emergency exit markings.* Each passenger-carrying airplane must have an emergency lighting system, independent of the main lighting system; however, sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must—

(1) Illuminate each passenger exit marking and location sign;

(2) Provide enough general lighting in the passenger cabin so that the average illumination when measured at 40-inch intervals at seat armrest height, on the centerline of the main passenger aisle, is at least 0.05 foot-candles; and

(3) For airplanes type certificated after January 1, 1958, include floor proximity

emergency escape path marking which meets the requirements of § 25.812(e) of this chapter in effect on November 26, 1984.

(d) *Emergency light operation.* Except for lights forming part of emergency lighting subsystems provided in compliance with § 25.812(h) of this chapter (as prescribed in paragraph (h) of this section) that serve no more than one assist means, are independent of the airplane's main emergency lighting systems, and are automatically activated when the assist means is deployed, each light required by paragraphs (c) and (h) of this section must:

(1) Be operable manually both from the flightcrew station and from a point in the passenger compartment that is readily accessible to a normal flight attendant seat;

(2) Have a means to prevent inadvertent operation of the manual controls;

(3) When armed or turned on at either station, remain lighted or become lighted upon interruption of the airplane's normal electric power;

(4) Be armed or turned on during taxiing, takeoff, and landing. In showing compliance with this paragraph, a transverse vertical separation of the fuselage need not be considered;

(5) Provide the required level of illumination for at least 10 minutes at the critical ambient conditions after emergency landing; and

(6) Have a cockpit control device that has an "on," "off," and "armed" position.

(e) *Emergency exit operating handles.* (1) For a passenger-carrying airplane for which the application for the type certificate was filed prior to May 1, 1972, the location of each passenger emergency exit operating handle, and instructions for opening the exit, must be shown by a marking on or near the exit that is readable from a distance of 30 inches. In addition, for each Type I and Type II emergency exit with a locking mechanism released by rotary motion of the handle, the instructions for opening must be shown by—

(i) A red arrow with a shaft at least three-fourths inch wide and a head twice the width of the shaft, extending along at least 70° of arc at a radius approximately equal to three-fourths of the handle length; and

(ii) The word "open" in red letters 1 inch high placed horizontally near the head of the arrow.

(2) For a passenger-carrying airplane for which the application for the type certificate was filed on or after May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown in accordance with the requirements under which the airplane was type certificated. On these airplanes, no operating handle or operating handle cover may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts.

(f) *Emergency exit access.* Access to emergency exits must be provided as follows for each passenger-carrying airplane:

(1) Each passageway between individual passenger areas, or leading to a Type I or Type II emergency exit, must be unobstructed and at least 20 inches wide.

(2) There must be enough space next to each Type I or Type II emergency exit to allow a crewmember to assist in the evacuation of passengers without reducing the unobstructed width of the passageway below that required in paragraph (f)(1) of this section; however, the Administrator may authorize deviation from this requirement for an airplane certificated under the provisions of part 4b of the Civil Air Regulations in effect before December 20, 1951, if he finds that special circumstances exist that provide an equivalent level of safety.

(3) There must be access from the main aisle to each Type III and Type IV exit. The access from the aisle to these exits must not be obstructed by seats, berths, or other protrusions in a manner that would reduce the effectiveness of the exit. In addition, for a transport category airplane type certificated after January 1, 1958, there must be placards installed in accordance with § 25.813(c)(3) for each Type III exit.

(4) If it is necessary to pass through a passageway between passenger compartments to reach any required emergency exit from any seat in the passenger cabin, the passageway must not be obstructed. Curtains may, however, be used if they allow free entry through the passageway.

(5) No door may be installed in any partition between passenger compartments.

(6) If it is necessary to pass through a doorway separating the passenger cabin from other areas to reach a required emergency exit from any passenger seat, the door must have a means to latch it in the open position, and the door must be latched open during each takeoff and landing. The latching means must be able to withstand the loads imposed upon it when the door is subjected to the ultimate inertia forces, relative to the surrounding structure, listed in § 25.561(b) of this chapter.

(g) *Exterior exit markings.* Each passenger emergency exit and the means of opening that exit from the outside must be marked on the outside of the airplane. There must be a 2-inch colored band outlining each passenger emergency exit on the side of the fuselage. Each outside marking, including the band, must be readily distinguishable from the surrounding fuselage area by contrast in color. The markings must comply with the following:

(1) If the reflectance of the darker color is 15 percent or less, the reflectance of the lighter color must be at least 45 percent.

(2) If the reflectance of the darker color is greater than 15 percent, at least a 30 percent difference between its reflectance and the reflectance of the lighter color must be provided.

(3) Exits that are not in the side of the fuselage must have the external means of opening and applicable instructions marked conspicuously in red or, if red is inconspicuous against the background color, in bright chrome yellow and, when the opening means for such an exit is located on only one side of the fuselage, a conspicuous marking to that effect must be provided on the other side. "Reflectance" is the ratio of the luminous flux reflected by a body to the luminous flux it receives.

(h) *Exterior emergency lighting and escape route.* (1) Each passenger-carrying airplane must be equipped with exterior lighting that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.812 (f) and (g) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the exterior emergency lighting requirements under which the airplane was type certificated.

(2) Each passenger-carrying airplane must be equipped with a slip-resistant escape route that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.803(e) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the slip-resistant escape route requirements under which the airplane was type certificated.

(i) *Floor level exits.* Each floor level door or exit in the side of the fuselage (other than those leading into a cargo or baggage compartment that is not accessible from the passenger cabin)

that is 44 or more inches high and 20 or more inches wide, but not wider than 46 inches, each passenger ventral exit (except the ventral exits on Martin 404 and Convair 240 airplanes), and each tail cone exit, must meet the requirements of this section for floor level emergency exits. However, the Administrator may grant a deviation from this paragraph if he finds that circumstances make full compliance impractical and that an acceptable level of safety has been achieved.

(j) *Additional emergency exits.* Approved emergency exits in the passenger compartments that are in excess of the minimum number of required emergency exits must meet all of the applicable provisions of this section, except paragraphs (f) (1), (2), and (3) of this section, and must be readily accessible.

(k) On each large passenger-carrying turbojet-powered airplane, each ventral exit and tailcone exit must be—

(1) Designed and constructed so that it cannot be opened during flight; and

(2) Marked with a placard readable from a distance of 30 inches and installed at a conspicuous location near the means of opening the exit, stating that the exit has been designed and constructed so that it cannot be opened during flight.

(l) *Portable lights.* No person may operate a passenger-carrying airplane unless it is equipped with flashlight stowage provisions accessible from each flight attendant seat.

Issued in Washington, DC, on April 28, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92–10306 Filed 5–1–92; 8:45 am]

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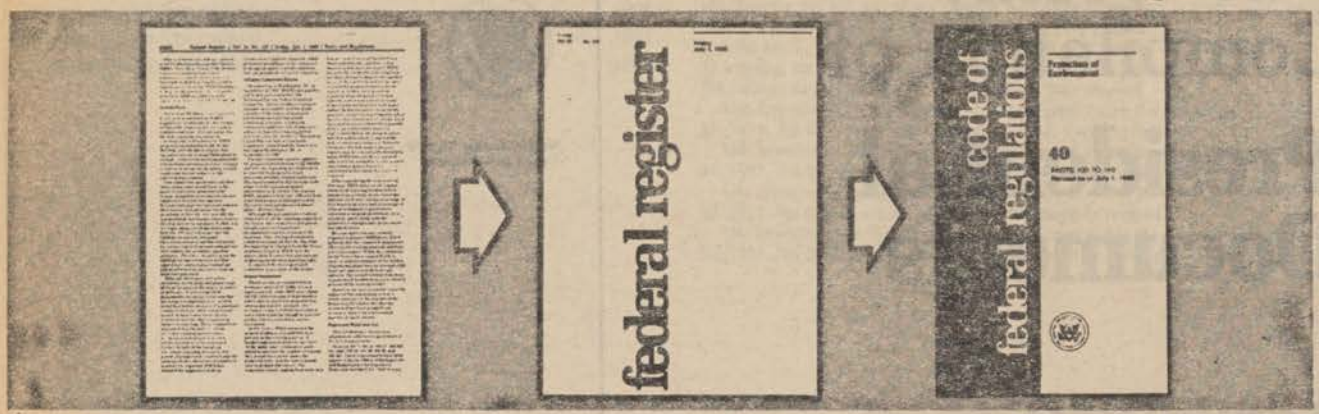

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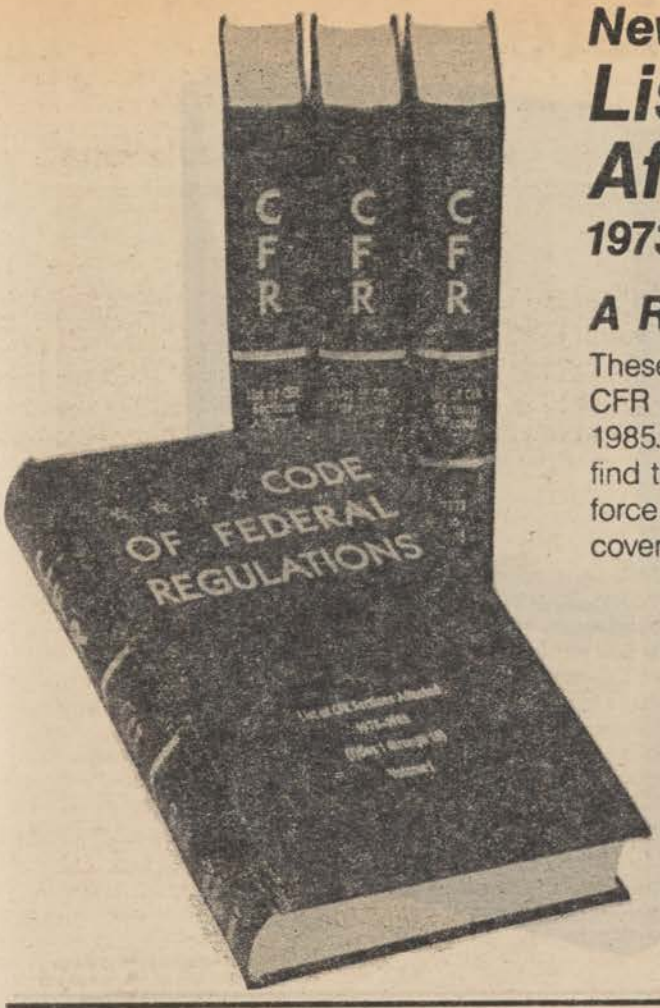

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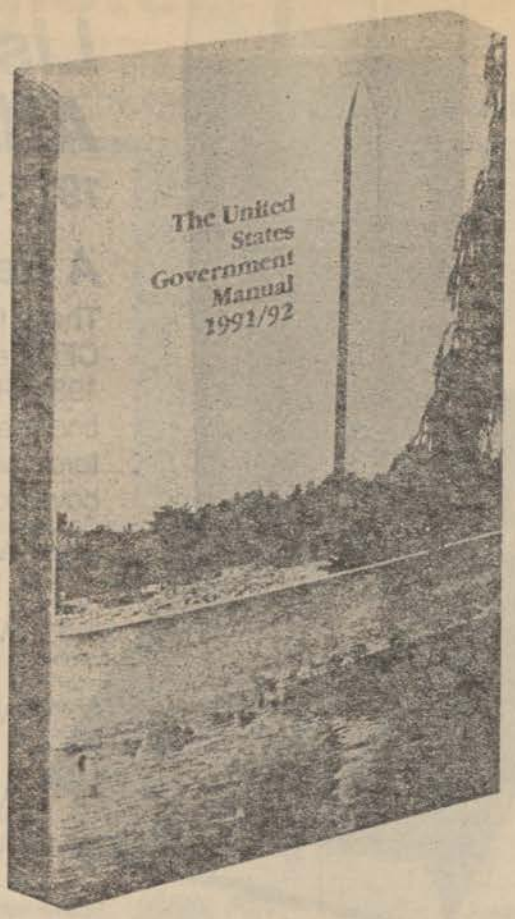

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